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18 CORY SPENCER, DIANA MILENA
19 REED, and COASTAL PROTECTION
20 RANGERS, INC.

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

23 CORY SPENCER, an individual;
24 DIANA MILENA REED, an
25 individual; and COASTAL
26 PROTECTION RANGERS, INC., a
27 California non-profit public benefit
28 corporation,

Plaintiffs,

CASE NO. 2:16-cv-02129-SJO (RAOx)
**PLAINTIFFS' ADDITIONAL
MATERIAL FACTS IN OPPOSITION
TO INDIVIDUAL DEFENDANTS'
MOTIONS FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

1
2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS VERDES
13 ESTATES; CHIEF OF POLICE JEFF
14 KEPLEY, in his representative
15 capacity; and DOES 1-10,

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17 Defendants.

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Judge: Hon. S. James Otero
Date: September 5, 2017
Time: 10:00 a.m.
Crtrm.: 10C

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

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30 Plaintiffs Cory Spencer, Diana Milena Reed and Coastal Protection Rangers,
31 Inc. (collectively referred to as “Plaintiffs”) submit these Additional Material Facts
32 in Opposition to Defendants Sang Lee, Brant Blakeman, Alan Johnston aka Jalian
33 Johnston, Michael Rae Papayans, Angelo Ferrara, Frank Ferrara, and Charlie
34 Ferrara’s (hereinafter “Individual Defendants”) Motions for Summary Judgment or,
35 in the Alternative, Summary Adjudication set for hearing on September 5, 2017,
36 before this Court.

1 **Issue #1: Lunada Bay Is A Unique Part Of The California Coast And A**
2 **Public Beach Owned By The City, And Under A Grant From The**
3 **State Of California, Is Reserved To The People Of California.**

4 **Issue #1: Lunada Bay Is A Unique Part Of The California Coast And A**
5 **Public Beach Owned By The City, And Under A Grant From The**
6 **State Of California, Is Reserved To The People Of California.**

Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
1. Palos Verdes Estates Shoreline Preserve and specifically Lunada Bay constitute an asset of priceless value, and exceptional and dramatic beauty. Lunada Bay is owned by the City and is a world class wave.	1. City Responses to Plaintiffs' Separate Statement. Undisputed Material Facts ISO Class Certification [Docket No. 189] Nos. 1 ("Lunada Bay is owned by the City of Palos Verdes Estates and is a public beach") ("Lunada Bay is a unique world class surfing site, and offers many recreational opportunities"), 5; Willis Decl. ISO Opp. to City MSJ, ¶¶ 8, 9, 10, 11, 15 [Docket No. 309] ("Lunada Bay is a world class wave . . .") and Ex. 4 ("Palos Verdes Estates Shoreline Preserve constitutes an asset of priceless value." p. 87) (Palos Verdes "has a shoreline of exceptional and dramatic scenic beauty . . .") (p. 115); Johnston Depo. 44:10-25. ("Q. If Ms. Lawry quoted you in an article as saying that a good day surfing with my friends is like 5 grand to

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2 **Public Beach Owned By The City, And Under A Grant From The**
3 **State Of California, Is Reserved To The People Of California.**

Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
	<p>me, do you have any reason to doubt that she accurately quoted you? A. I might have said that. I mean, now that I -- now that I'm thinking about it, it's worth more than that, and it's worth less than that. You can't put a monetary value on surfing, you know. It cost money to travel and stay in hotels and surfboards cost money and stuff, but the feeling is -- you can't equate like to anything financial. "); Lee Depo. 88:22-25, 89:("[I] am not a rich person , all [I] have is my word , my good friends (who back me up 110% n not 98 %), [I] am not going to have a mansion on the cliff or drive a \$ 100,000 car but what [but what I] have is priceless this place has given me sooooooooo much [I] cant even start....."); Barber Depo. 112:18-22, Ex. 263 ("Q: And I'm going to – 263 I'm going to put in front of you, Sergeant Barber. Do you recognize that as being a map of the general Lunada</p>

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3 **State Of California, Is Reserved To The People Of California.**

Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
	Bay coastal area? A: Yes.”).
2. The State of California granted Lunada Bay and the rest of the Palos Verdes Estates Shoreline Preserve to the City, but it is reserved for the People of California.	2. Willis Decl., ¶¶ 8-11[Docket No. 309].

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13 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
14 **Standing To Obtain Relief Against The Individual Defendants**

Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have Standing To Obtain Relief Against The Individual Defendants	
Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:

1	<u>Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have</u>
2	<u>Standing To Obtain Relief Against The Individual Defendants</u>
3	<u>Plaintiffs' Additional Material Facts:</u>
4	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
5	3. Coastal Protection Rangers (CPR) is a California non-profit public benefit corporation whose mission is dedicated to ensuring public access to the California coast.
6	3. City Responses to Plaintiffs' Separate Statement of Undisputed Facts ISO Class Certification No. 14 ("The Coastal Protection Rangers, Inc. is a nonprofit dedicated to ensuring beach access and environmental justice. CPR believes all visitors should be able to visit Lunada Bay without fear of attack or vandalism. Undisputed") [Docket No. 189]; Slatten Decl. ISO Motion for Class Certification ¶ 2 [Docket No. 159-6]; Apostol Decl. ISO Opp. City MSJ, ¶¶ 2,3 [Docket No. 304].
7	4. Non-profit coastal advocacy groups like CPR provide important support to the California Coastal Commission.
8	4. Willis Decl. ISO Opp. City MSJ, ¶¶ 3, 4, 5, 6, 7, 11, 12 [Docket No. 309].
9	5. To CPR, the beach represents freedom, a place to gather with friends, and a place for people to express themselves.
10	5. Slatten Decl. ISO Motion for Class Certification ¶ 4 [Docket No. 159-6].
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1	6. To CPR, the California coast is the 2 largest open space near urban areas that 3 have too little access to recreation, 4 parks, nature and the outdoors.	6. Slatten Decl. ISO Motion for Class Certification ¶ 4 [Docket No. 159-6].
5	7. Beach access is central to CPR's 6 mission.	7. Slatten Decl. ISO Motion for Class Certification ¶ 8 [Docket No. 159-6]; Apostol Decl. Opp. ISO City MSJ, ¶¶ 2, 3, 4, 8, 9, 10, 11, 14, 16 [Docket No. 304].
10	8. CPR board members, members, 11 and/or volunteers have suffered from 12 unlawful exclusion by the City (and by 13 the Bay Boys and its members, 14 including the individual Defendants) at 15 Lunada Bay, including exclusion based 16 on where they live, race and gender.	8. Slatten Decl. ISO Motion for Class Certification ¶ 7 [Docket No. 159-6]; Apostol Decl. Opp. ISO City MSJ, ¶¶ 4, 6, 9, 10, 12, 13, 14, 16 [Docket No. 304].
17	9. CPR's members, volunteers and the 18 people it helps include people of color, 19 people with disabilities, women, and 20 people of different sexual orientations 21 who are concerned about illegal 22 exclusion from the coast.	9. Apostol Decl. Opp. ISO City MSJ, ¶¶ 3, 6, 8, 9, 10, 11, 12, 14, 16 [Docket No. 304].

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1	10.CPR has investigated illegal 2 exclusion by the Bay Boys and the City, 3 and on behalf of its members and 4 volunteers wants to remedy unequal 5 treatment against persons of color, 6 women, the poor, and other protected 7 categories – and on behalf of its 8 members and volunteers specifically 9 desires to address civil rights issues as 10 they relate to beach access.	10.Slatten Decl. ISO Motion for Class Certification ¶¶ 9,10, 11, 13 [Docket No. 159-6]; Apostol Decl. Opp. ISO City MSJ, ¶¶ 3, 5, 6, 7, 8, 10, 11, 12, 14 [Docket No. 304].
11	11.CPR has diverted resources to 12 achieve open access for all at Lunada 13 Bay, and if it were not for the illegal 14 exclusivity by the Bay Boys and City, 15 these resources could be used for other 16 important CPR projects related to 17 coastal access.	11.Apostol Decl. Opp. ISO City MSJ, ¶ 15 [Docket No. 304].
18	12.The Bay Boys, along with the City, 19 are causing CPR's members and 20 volunteers irreparable harm.	12.Willis Decl. ISO Opp. to City MSJ, ¶ 4 [Docket No. 309] ("Without judicial assistance, I am of the opinion that the potential remains that beachgoers are being denied access to Lunada Bay in violation of the law, and, thus, are continuing to suffer irreparable harm.").
25	13.Diana Reed is a female outsider who 26 has been harassed at Lunada Bay by the 27 Bay Boys, and is deterred from visiting	13.Reed Decl. ISO Motion for Class Certification ¶¶ 1, 5-11, 17-28 [Docket No. 159-5]; Franklin Decl., ¶ 25, Ex. 17

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Lunada Bay. [Docket No. 324] ("fucking sexy
6 baby...want to film it?"; "I seen you and I
7 think I touched myself a little bit"; "I can
8 do whatever I want."); Reed Depo.
9 (Vol. II) 204:15-20 ("I witnessed Mr.
10 Johnston moaning towards her, oscillating
11 his body in a sexual manner, you know,
12 other things, but it's hard for me to
13 remember because I was mostly focused
14 on what was happening to me and I was
15 so scared that I, you know, I wasn't
16 thinking very clearly."); Reed Depo.
17 (Vol. II) 207: 1:5 ("I think that I wanted
18 an escort at the time because of the
19 previous incident in January where I was
20 yelled at by the other individual [David
21 Melo]. Q: Okay. What did you want the
22 escort for? A: For safety."); Reed Depo.
23 (Vol. II) 207:21-23 ("Q: Did you want
24 the escort to go to the fort with you? A: I
25 did want them to escort me there."); Reed
26 Depo. (Vol. II) 208: 9-13 ("I just
27 remember -- yeah, I just remember

1	<u>Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have</u>	
2	<u>Standing To Obtain Relief Against The Individual Defendants</u>	
3	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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5		speaking to the police and requesting
6		someone to escort me. I remember, you
7		know, the idea of doing that, but it's hard
8		for me to remember, you know, anything
9		that was said specifically."); Reed Depo.
10		(Vol. II) 211:18-20 ("Did they tell you
11		they weren't available or did they refuse
12		your request? A: Is there a difference
13		between that?"); Reed Depo. (Vol. II)
14		300:15-25, 301:1-25, 302:1-7 ("Q: Did
15		you ever see Brant Blakeman do anything
16		besides filming or speaking to you as you
17		told us at the bay area? A: Well, during
18		the incident that occurred on February
19		13th, it appeared as though he had
20		orchestrated that event with Mr. Jalian
21		Johnston. Q: What specifically did he do
22		that made you think that he had
23		orchestrated that? A: It appeared as
24		though they had planned the event out in
25		an attempt to try to ruin my camera and in
26		an attempt to try to intimidate me.
27		Q: What specifically was done or did you
28		

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 see that caused you to believe that?
6 A: The fact that when they entered the
7 fort it seemed like all of their actions were
8 orchestrated, they immediately rushed
9 towards me. Johnston immediately
10 opened the can of beer and, you know,
11 sprayed it on me and on my camera in
12 what I believe they intended to appear as
13 an accident but to me it felt very
14 intentional. The way that, you know, he
15 was -- he was filming Johnston as though
16 it was like a planned performance it
17 seemed like, you know. The fact that he
18 was holding the camera just right, right
19 next to my face in a way that made me
20 feel threatened or intimidated. Q: Go
21 ahead. A: A lot of the actions at Lunada
22 Bay between the locals all appeared to be
23 orchestrated based on what I've seen and
24 what I've heard in the surf community.
25 Q: Can you give me any specifics as to
26 why you thought the February 13th
27 episode was orchestrated or scripted or

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 somehow created by Mr. Blakeman or
6 with his direction? A: I don't know who
7 planned it. I don't know who planned it
8 but it appeared that they were following a
9 very distinct plan to try to intimidate me
10 and try to ruin my camera. Q: Can you
11 give me any specifics as to why you think
12 that? A: I think that because of the way
13 that that the actions unfolded that I just
14 described."); Reed Depo. (Vol. II) 305:12-
15 ("Q: Was Mr. Blakeman doing
16 anything as he entered? A: Yes, as I was
17 saying, he was holding the camera on
18 some kind of tripod device recording, very
19 menacing, threatening look on his face
20 that made me extremely fearful.
21 Mr. Johnston was -- also had a very
22 menacing and fearful expression. The
23 way that they walked and their body
24 language also appeared threatening. They
25 were making big, loud steps and just a lot
26 of heavy, you know, frightening
27 movements that made me feel that they

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 were there in an aggressive and hostile
6 way."); Reed Depo. (Vol. II) 307:14-25
7 ("Yes, Mr. Johnston appeared to be
8 forging a celebration, and, you know, he
9 was raising his voice and saying woo-hoo,
10 you know, L.A. Times, and he was -- as I
11 can assume now, attempting to celebrate
12 the fact that the L.A. Times had published
13 an article about Lunada Bay and it was on
14 the front page that day. And I was
15 unaware of that fact at the time. Q: When
16 you say "forging a celebration," what do
17 you mean? A: What I mean is that they
18 were obviously there to intimidate and
19 harass me, and the way that they wanted
20 to do it, I guess, was to pretend that they
21 were celebrating the fact that the article
22 came out but clearly they were upset
23 about the article."); Reed Depo. (Vol. II)
24 308: 1-7 ("When you say "rushing
25 towards me," what do you mean? A: By
26 that, I mean I remember him walking, you
27 know, moving towards me quickly, I

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 wouldn't say walking, but moving
6 towards me in an extremely quick and
7 frightening way to where he was in my
8 personal space, very close."); Reed Depo.
9 (Vol. II) 319: 17-25, 320:1-11 ("Q: I
10 wasn't there so I don't know what to ask
11 you except to ask you to tell me what
12 other things you can recall about the
13 episode on the 13th specifically with
14 regard to Mr. Blakeman that you haven't
15 told me about already. You told me that
16 he had a camera, that he took videos, that
17 he looked menacing to you, that he
18 videotaped or whatever? A: Yeah, I
19 remember that he wouldn't stop
20 videotaping me. I think I might have
21 asked him to stop -- I mean, I definitely
22 asked him why they're doing that. I feel
23 like his role was to record rather than to
24 speak and to intimidate through his
25 camera. So I remember him, like I said,
26 getting very close to me and being -- felt
27 like he was right in my face with the

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 camera. I remember asking them why
6 they're filming me and they said they're
7 filming me because I'm sexy and because
8 I turn them on and that was what Mr.
9 Johnston was saying."); Reed Depo.
10 (Vol. II) 321: 13-23 ("Q: What is a
11 menacing expression to you, what does
12 that mean? A: I mean, he looked like -- I
13 mean, he was -- obviously, he was
14 scowling, he was -- his body language
15 conveyed that he was hostile, he -- I mean,
16 they were making -- he was making
17 sexual comments, Mr. Johnston was. And
18 I just felt very frightened like anything
19 could happen, you know."); Reed Depo.
20 (Vol. II) 276:13-25, 277:1-3 ("Q: Now,
21 the pain and suffering that you attribute,
22 how have you experienced pain and
23 suffering? Describe your symptoms with
24 the pain and suffering you suffered?
25 A: I've had loss of sleep -- you mean the
26 entire -- the entire course of events that
27 happened to me at the fort was extremely

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 traumatic, you know, I felt -- felt like I
6 could have even been raped. I mean, it
7 was incredibly frightening, I felt helpless.
8 Just that whole memory of the event has
9 caused me to be fearful and just really
10 affected my piece of mind. Q: Did it
11 cause you to be fearful of going to Lunada
12 Bay after February 13th? A: Of course.
13 Yeah, it caused that as well, hmm-mm.
14 Q: Okay. And you did go to Lunada Bay
15 after that, February 13th; right? A: I did
16 go back. And the reason why is because I
17 don't believe in bullying. I will stand up
18 to bullies. I will do what's right, it's a
19 public beach, and if I don't go then who
20 else will go. And, you know, I just, you
21 know, I don't believe in them bullying me
22 into being fearful of going somewhere
23 that's beautiful and should be accessible
24 to all people."); Reed Depo. (Vol. I),
25 170:9-25 ("Q: What do you remember
26 about being approached by individual
27 defendants with a case of beer? A: I

1	<u>Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have</u>	
2	<u>Standing To Obtain Relief Against The Individual Defendants</u>	
3	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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5		remember that they approached me very
6		rapidly and I was caught by surprise. I
7		remember that they rushed towards me in
8		a hostile manner. I remember, you know,
9		declining that I wanted to drink beer. I
10		remember being videotaped by Brant
11		Blakeman. I remember there were times
12		when I was being videotaped very close to
13		my face and it felt very intimidating and
14		definitely felt like I was being harassed.
15		And I think that I asked them, you know,
16		why they're videotaping me because it
17		made me very uncomfortable. I
18		remember Mr. Johnston opening the can
19		of beer in a way that sprayed my arm and
20		my camera. I remember him chucking
21		beer and throwing beer cans on the floor.
22		I remember him being very loud and very
23		scary, very intimidating, and acting in a
24		sexual manner."); Reed Depo. (Vol. I)
25		175:8-14 ("Q: Do you recall trying to
26		leave the fort and being unable to do so
27		because you were blocked?
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1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 MR. FRANKLIN: Vague and ambiguous.
6 A: I recall them standing in front of me,
7 and the way to leave would be to go, you
8 know, to get close to them. And I do
9 recall attempting to call the police but not
10 having cell phone service."); Johnston
11 Depo. 148:19-21 (admitting he said he
12 touched himself and that he drank three
13 beers during his interaction with Reed);
14 Frank Ferrara Depo. 208:6-9 (questioning
15 why an outsider woman would be at
16 Lunada Bay) ("And I know that Diana
17 talked about she wants to be an
18 accomplished big wave surfer. And she
19 has got her makeup and she's looking like
20 she's ready to go out on a date and she's
21 on the patio."); Mowat Depo. 190:12-14
22 (stating in reference to Reed, "I could tell
23 people's body language and the way
24 people are and she just looked like a bitch
25 to me and a liar."); Blakeman Mot.
26 Summ. J. at 4:17-18 [Docket No. 284]
27 (trivializing Plaintiff Reed's assault and
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1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have
2	Standing To Obtain Relief Against The Individual Defendants
3	Plaintiffs' Additional Material Facts:
4	Evidence in Support of Plaintiffs' Additional Material Facts:
5	victim-blaming her, stating: "Reed can be seen throughout the video smiling, smirking, and in no apparent distress.");
6	Blakeman Depo. 196:24-197:10
7	(Blakeman acknowledging the men's locker-room atmosphere at Lunada Bay
8	and authenticating a photo of him
9	changing at the shoreline), Ex. 178.
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13	14. After being first harassed, on
14	February 13, 2016, Reed returned to
15	Lunada Bay and asked the police for an
16	escort from the bluffs to the beach but
17	was told no officers were available.
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19	14. Reed Decl. ISO Motion for Class
20	Certification ¶18 [Docket No. 159-5]; <i>see</i>
21	Plaintiffs Additional Material Facts
22	Opposition to City Defendants Motion for
23	Summary Judgment [Docket No. 323] No.
24	119.
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27	15. On February 13, 2016, the day Reed
28	is harassed a second time, (i) the City
	had cancelled a planned undercover
	operation at Lunada Bay because it was
	"leaked" to the Bay Boys the day
	before, (ii) Reed was sexually harassed
	by Bay Boys Alan Johnston and Brant
	Blakeman, and (iii) the day before Bay
	Boy Michael Thiel directs the City

1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have
2	Standing To Obtain Relief Against The Individual Defendants
3	Plaintiffs' Additional Material Facts:
4	Evidence in Support of Plaintiffs' Additional Material Facts:
5	Manager to not hold an undercover operation.
6	want.” <i>See also</i> Plaintiffs' Additional Material Facts Opposition to City Defendant's Motion for Summary Judgment [Docket No. 323] Nos. 119 and 185.
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10	16. Unbeknownst to Reed at the time, the individual defendants and the rest of the Bay Boys had conspired to assault outsiders like Reed on February 13, 2016 to deter her and others from returning to Lunada Bay.
11	16. See PAMF 24 to 63.
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16	17. In response to her desire to return, the City told her to carry a cell phone and travel in a large group. The Chief of Police told her it was not safe to go to Lunada Bay, that he wouldn't even tell a man to go down there, and that he viewed it as a long term problem.
17	17. Reed Decl. ISO Motion for Class Certification ¶31. [Docket No. 159-5]
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23	18. Reed suffers irreparable harm: As an outsider, she is denied access to a public area granted to the City from the State.
24	18. Reed Decl. ISO Motion for Class Certification ¶¶ 9, 11, 12, 14, 15, 18, 19, 20, 21, 22, 24, 27, 30, 31, 40, 41 [Docket No. 159-5]; Willis Decl. ISO Opp. to City MSJ ¶¶ 3, 4 [Docket No. 309].
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1	<u>Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have</u>
2	<u>Standing To Obtain Relief Against The Individual Defendants</u>
3	<u>Plaintiffs' Additional Material Facts:</u>
4	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
5	19.Cory Spencer is an outsider who 6 lives in the inland community of Norco, 7 California more than 60 miles from 8 Palos Verdes Estates. Like Reed, he 9 has been harassed by outsiders with 10 City complicity. He grew up in La 11 Mirada, more than 30 miles Palos 12 Verdes Estates.
13	20.Because of its reputation for 14 localism, Spencer is afraid to surf 15 Lunada Bay.
16	21.Supported by other outsiders, 17 Spencer decided to address his fear and 18 attempt to surf Lunada Bay in 2016.
19	22.Upon arrival at Lunada Bay, 20 Spencer was intimidated and harassed 21 as an outsider on land, blocked from 22 surfing (in water granted to the City 23 from the State) and run over in the 24 water – all of this was planned and 25 coordinated by the Bay Boys. <i>See</i> 26 PAMF 24 to 63. Even though Spencer 27 had given the City advance notice that
28	19.Spencer Decl. ISO Motion for Class Certification ¶¶1, 2. [Docket No. 159-4] 20.C. Spencer Decl. ISO Motion for Class Certification ¶¶3, 4, 5. [Docket No. 159- 4] 21.C. Spencer Decl. ISO Motion for Class Certification ¶¶8, 9, 10. [Docket No. 159- 4] 22.C. Spencer Decl. ISO Motion for Class Certification ¶¶11-31 [Docket No. 159-4]; Wolff Decl., ¶ 35 & Ex 34; Spencer Depo. 39:1-18 (“A: Let me just say this. Around 2002 or 2003, somewhere in the early 2000s, I was almost ecstatic when my police chief was looking for volunteers of officers to go surf at Lunada Bay to take care of a problem that

1	<u>Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have</u>
2	<u>Standing To Obtain Relief Against The Individual Defendants</u>
3	<u>Plaintiffs' Additional Material Facts:</u>
4	
5	he and other outsiders would be coming
6	to use Lunada Bay, the City failed to
7	arrive as requested and failed to patrol
8	the shoreline near the water. Moreover,
9	even though he had been purposefully
10	run over by a local and attempted to tell
11	a City policeman, the City showed no
12	interest in an investigation of a crime
13	against an outsider, even though
14	Spencer himself is a police officer but
15	from another jurisdiction.
16	
17	
18	
19	
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21	
22	supposedly either the police chief or the
23	city at the time wanted to take care of, and
24	I was going to go in the capacity of a
25	police officer; be able to undercover surf
26	in a place that I wanted to surf since I was
27	probably 15 years old and take care of a
28	bullying problem. I thought at that time,
	hey, these guys are going to do it. You
	know, this is -- this is going to happen,
	and I'm going to be a part of it. And that
	was -- that was exciting to me. Yeah, I
	was excited. I thought at that time it was
	going to be taken care of. But, for
	whatever reason, that undercover
	operation, or whatever they were planning
	on doing with us, was called off; and,
	again, nothing happened. That was a
	letdown."); Spencer Depo. 44:4-16 ("Q:
	And 'cause I don't know. I don't
	understand undercover operations.
	A: Well, I think the expectation speaks
	for itself on the undercover operation.
	You go in undercover expecting that

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 things that have been reported for the last
6 30 or 40 years would happen to you as an
7 undiscovered outsider; and you, being an
8 on-duty police officer, would be able to
9 make and effect a proper arrest or a
10 citation and send a message that -- when I
11 say, 'we,' meaning 'we' as the Palos
12 Verdes Estates police are not going to
13 tolerate a gang in the water and on the
14 beach, and the problem would go away.
15 Almost instantaneously within a couple
16 weeks this could be cleared up. We
17 would not be sitting here today.");
18 Spencer Depo. 56:5-14 ("A: Let's go
19 back to that. When you see -- you
20 question why you can't go there; and,
21 then, you start inquiring in the surfing
22 world why you can't go there, and you
23 hear the stories that have gone on for as
24 long as they have up into that point. You
25 immediately get fearful. You don't want
26 to go somewhere where you're going to
27 get your tires slashed; your windows

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 Plaintiffs' Additional Material Facts:	4 Evidence in Support of Plaintiffs' 5 Additional Material Facts:
	6 egged; your property thrown in the ocean. 7 Those were the stories that you get; so, 8 you become fearful right away, right? Or 9 I did."); Spencer Depo. 59:18-21 10 ("Fearful? Just going there I was in fear. 11 Just driving up the Palos Verdes Peninsula 12 road, you know, or whatever road it is to 13 get up there, you're a little afraid because 14 you've heard stories."); Spencer Depo. 15 60:2-8 ("I don't know how to answer that 16 any other way than I already did. When 17 you drive up, you -- because of the lure, 18 the stories, you feel fearful of, hey, is this 19 real? Is this -- is this place really like they 20 say it is? Am I going to get my property 21 vandalized? Am I going to get, you 22 know, in some type of confrontation? 23 That's a fear."); Spencer Depo. 103:11-25 24 ("Q: Did these statements cause fear for 25 you? A: Yeah. Q: Okay. A: Yes. 26 Sorry. Q: Did anything else occur in the 27 20 minutes that caused fear for you? 28 A: Yes. Q: What was that? A: More --

1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have
2	Standing To Obtain Relief Against The Individual Defendants
3	Plaintiffs' Additional Material Facts:
4	Evidence in Support of Plaintiffs' Additional Material Facts:
5	more of the same statements by a specific individual, who I could identify. I don't know his name. Same things. It was more of a – more of a closer, I guess, encounter with the same language all the way down the trail; jumping into the water; same individual just keep, you know, heckling."); Spencer Depo. 105:12-21 ("A: A very uncomfortable feeling when the -- who I now know -- did not know at the time -- was Defendant
6	Blakeman paddling around myself and
7	Chris and, more specifically, Chris in a
8	very tight circle; blocking Chris from
9	getting any waves; never saying a word;
10	just looking -- staring at both he and I.
11	That was a little weird; fearful. I've never
12	experienced that before in my life in the
13	water like -- kind of like a circling you
14	like a shark. You know, it was weird --
15	just weird."); Spencer Depo. 106:20-25,
16	107:1-9 ("Q: Once in the water, on his
17	second wave at Lunada Bay, a member of
18	
19	
20	
21	
22	
23	
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25	
26	
27	
28	

1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have	
2	Standing To Obtain Relief Against The Individual Defendants	
3	Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
4		
5		Defendant LUNADA BAY BOYS
6		intentionally ran Spencer over with his
7		surfboard and sliced open Spencer's
8		hand." Is that true? A: Yes. Q: All
9		right. Which hand was that? A: The
10		right wrist. Q: Okay. A: With about a
11		half-inch scar. Q: Do you mind showing
12		it to me? A: Right there."); Spencer
13		Depo. 108:4-17 ("Q: Well, that's a bad
14		question. How do you know that the
15		person who ran you over with the
16		surfboard intentionally did that? A: I'm
17		not in his brain; but I have surfed for, you
18		know, 30 years, and you can tell when
19		somebody locks eyes with you and is on
20		one path, and they specifically move their
21		board and maneuver their body to make
22		their board go in another path that's
23		directly at you when they could go the
24		more safer, more better part of the wave
25		being closer to the more critical part of the
26		wave, which is more enjoyable to surf
27		than aiming towards somebody paddling
28		

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 out to get back out to the lineup. In my
6 mind, I determined that, hey, this guy
7 tried to run me over."); Spencer Depo.
8 109:17-22 ("A: With that individual who
9 ran -- just ran me over; start berating me
10 with comments of, you know, 'What are
11 you' -- 'What are you fucking doing out
12 here?' I told you to go home. I should
13 have ran you over. Why are you paddling
14 in the sun glare where I can't see you?"
15 And that's it. 'I should have ran you
16 over.'"); Spencer Depo. 110:12-25, 111:1-
17 4, 9-25, 112:1 ("Q: Did you say anything
18 to the person whose surfboard cut your
19 hand? A: After he made the comment
20 that, 'I should have ran you over,' I says,
21 'Well, you did,' and I held up my hand
22 and showed him, and that's when he said,
23 you know, 'Why are you paddling where I
24 can't see you? You shouldn't paddle in
25 the sunlight,' stuff like that. Then I kept
26 paddling off. Q: Were you fearful of
27 being further injured after that point?

1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have	
2	Standing To Obtain Relief Against The Individual Defendants	
3	Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
4		
5		A: That's an understatement. Q: So is
6		the answer yes? A: Yes. Q: Okay. Did
7		you feel that what had occurred to you
8		getting your hand cut and the way it
9		happened was a crime? A: I know it was
10		a crime.... A: The way his explanation
11		was going down the road of, basically,
12		avoiding taking any responsibility for his
13		actions; blaming it on the sun; blaming,
14		you know, me paddling where I'm not
15		supposed to be paddling -- I was paddling
16		exactly where you're supposed to paddle
17		to avoid injury; to avoid conflict with any
18		other surfers. I was paddling back to the
19		channel, which basically gets away from
20		the critical part of the wave, which is
21		where he should have been surfing when
22		he redirected his path to run me over. You
23		know, in my opinion, yeah, it was a crime.
24		Did I report it? It's going to be with no
25		witnesses there; no police officers in the
26		water, as there could have been; no police
27		officers down on the beach, as there could
28		

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 have been; on the fort, as there could have
6 been; nothing to corroborate my story, it
7 would have been a 'He said ...'; 'He said
8 ...' go nowhere thing."); Spencer
9 Depo. 112:25, 113:1-25, 114:1 ("Q: Did
10 you, at that point, have any fear that the
11 same thing would happen to your friend,
12 Chris? A: Yeah -- yes. Q: Okay. A: It
13 came alive. All those stories of 30 or 40
14 years just happened. Q: And given that
15 you had that fear, did you consider that in
16 order to avoid it potentially happening to
17 Chris, that, perhaps, you should take some
18 actions as a police officer -- and I think
19 you said that you felt it was a crime -- to
20 prevent that from happening to Chris?
21 [OBJECTION] A: I felt the best plan of
22 action was to stay clear of these guys,
23 especially since they just assaulted us.
24 I've got no radio. I've got no handcuffs.
25 I've got no gun; no bullet-proof vest. I'm
26 not a police officer out there. I'm a
27 citizen; okay? And the best plan of action

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 was to avoid them; and that was almost, I
6 mean, impossible, when you got a guy
7 circling around you -- not the guy that ran
8 me over but they're all -- they all know
9 each other, and here's the guy that just
10 injured me. He knows his buddy is
11 circling my friend; and, so, it's like let's
12 get out of here; so we caught one more
13 wave after that; and, then, we decided that
14 was -- it's getting too crazy out here, and
15 more and more [Bay Boys] started
16 showing up on the fort."); Spencer Depo.
17 149:7-23 ("We discussed Mr. Blakeman's
18 actions. Other than Mr. Blakeman's
19 actions, did you witness any other
20 incidents of the Lunada Bay Boys
21 threatening or taunting surfers that day in
22 February 2016? MR. FRANKLIN:
23 Asked and answered. THE WITNESS:
24 Well, I mean, how do I know who's doing
25 the taunting and threatening when it could
26 be all of them, when they're on their
27 phones, and more and more groups, you

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 know, show up to kind of put this
6 stranglehold on the area, in my opinion?
7 That's taunting and threatening in itself
8 when you have a little goat trail one way
9 to go down there, and you've got two
10 groups of 15 to 20 on each end, and you
11 got a guy going around with a selfie stick
12 and a camera, people -- people yelling at
13 you to fucking get out of there; 'Why are
14 you here? Go home. Don't surf here.' I
15 don't know who they are specifically.");
16 Spencer Depo. 125:10-25, 126:1-25,
17 127:1 ("Q: Yes, or anything that
18 happened to you that day? A: I did not
19 request a formal police report, no. I did
20 not. Q: Okay. Did you communicate to
21 anybody at the City of Palos Verdes
22 Estates Police Department with regard to
23 what occurred to you that day at Lunada
24 Bay? [OBJECTION] A: Yes. Q: Okay.
25 When was that? A: So, shortly after
26 getting changed, I noticed the group of
27 police officers standing to my south

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 talking with what appeared to be another
6 group of newly-formed Bay Boys. So, the
7 bay is a bay. There's a north and a south
8 end. The south group had, you know,
9 trucks and cars and guys standing kind of
10 huddled around in a group of guys, and
11 the police officers were kind of towards
12 the south. They weren't right up next to
13 the group. And I did notice that a couple
14 of police officers appeared to be talking
15 with a few members of the group; and, so,
16 I made a point, because there was, in my
17 opinion -- and I don't know if it was
18 directed by my contacts with the captain
19 or whatnot, but I noticed the group of
20 police officers; so, I personally wanted to
21 go over and tell them, you know, 'Hey,
22 thanks for showing up,' you know. 'We
23 appreciate it.' You know, and the one
24 younger officer -- I don't know his name.
25 I didn't get any of their names. I,
26 basically, you know, told him what
27 happened to me down there, you know;

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 showed him my hand and -- and I told
6 him, I says, you know, 'The guy is going
7 to claim sun glare and whatnot.' I just
8 didn't want to -- I knew where it was
9 going to go. 'He said ...'"; 'He said ...';
10 and, no, he [the officer] didn't offer to
11 take a report. You know, he didn't ask me
12 to point anybody out. I know you're
13 going to ask all these questions; so, we'll
14 just cut to the chase. Q: He did not offer
15 to take a report? A: Right."); Spencer
16 Depo. 187:22-25, 188:1-9, 188:22-23
17 ("Q: With regard to the pain and suffering
18 that you allege, can you describe how you
19 have suffered that pain and suffering?
20 A: Yeah, it's kind of a letdown. You just
21 feel sad that, you know, things that maybe
22 you'd hoped as a human that really
23 weren't happening down there, actually,
24 when they did happen to you, kind of --
25 don't know. I don't want to say a
26 depression 'cause -- but just a sadness,
27 you know, that, hey, it actually happened;

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 and kind of suffered, in the sense of, you
6 know, it just kind of a -- it's kind of a
7 bummer that it happened. You know, I'm
8 -- in my sense, I'm suffering that I'm not
9 able to go enjoy a place that I have a God-
10 given right to go enjoy without being run
11 over; called names; told to leave; so, in
12 that sense, yeah, that's a suffering to me, I
13 mean..... Q: Did you experience any loss
14 of sleep? A: Yes."); Spencer Depo.
15 193:10-25 ("Q: Do you attribute any of
16 those specifically to the actions of Chief
17 Kepley? A: Yes. I'm disappointed in
18 him. I'm disappointed that him and his
19 department are not taking care of the
20 problem, yes. Q: And you're
21 disappointed because Chief Kepley has
22 not eliminated the problem, or do you
23 mean something else by taking care of it?
24 A: Yes, eliminated the problem. Q: All
25 right. You would agree that extra patrols
26 were provided in January and in February
27 of 2016 when you asked for them; right?
28

1 **Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have**
2 **Standing To Obtain Relief Against The Individual Defendants**

3 **Plaintiffs' Additional Material Facts: Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 A: Wholeheartedly agree. MR.
6 FRANKLIN: Vague and ambiguous;
7 calls for speculation; move to strike.
8 196:2-19Q: Okay. Go ahead. And what
9 are those? A. They haven't -- here's the
10 deal. They haven't provided access to an
11 area that is popular for a recreational sport
12 for the public to enjoy. They haven't
13 provided any signage; notifications on
14 what to do if there's any type of problems.
15 There's nothing down there except a set of
16 rocks that divide the asphalt from the dirt.
17 They're very ineffective in providing
18 access down there, signage, which, in
19 turn, would automatically make it easy to
20 patrol and enforce laws and things that go
21 on down there. And let me just say they
22 had an opportunity to go through the
23 permitting process. They've chose to tear
24 down the fort when they could have
25 permitted it. Whatever they want to do,
26 but just make it accessible to any human
27 being that wants to go enjoy it; not let it

1	Issue #2: Plaintiffs Coastal Protection Rangers, Reed And Spencer Have
2	Standing To Obtain Relief Against The Individual Defendants
3	Plaintiffs' Additional Material Facts:
4	Evidence in Support of Plaintiffs' Additional Material Facts:
5	be controlled by a bunch of pack animals 6 that are acting like bullies. It's crazy."); 7 Spencer Depo. 274:3-10 ("Q: What is it 8 about right now that you don't feel 9 comfortable about? A: I don't feel the 10 problem has been addressed by the police; 11 by the city. I believe that there's still Bay 12 Boy members that are going to be there, 13 and I don't want to get into any type of 14 confrontation.").
15	23. Given the long-established custom 16 and practice of discrimination by the 17 City against outsiders, Spencer is afraid 18 to return to Lunada Bay to recreate in a 19 public area.
20	23. Spencer Decl. ISO Motion for Class 21 Certification ¶¶ 4, 5, 26 [Docket No. 159- 22 4]; A. Willis Decl. ISO Opp. to City MSJ, 23 ¶¶ 5, 12 [Docket No. 304]; Plaintiffs' 24 Additional Material Facts Opposition to 25 City Defendant's Motion for Summary 26 Judgment [Docket No. 323] Nos. 129, 27 130.

24 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
25 **Exclude Outsiders from Lunada Bay.**

26 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
27 **Exclude Outsiders from Lunada Bay.**

1	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>24. The individual defendants are members of a group known as the “Bay Boys,” who bully, threaten, intimidate, and harass “outsiders” to keep them away from Lunada Bay. Beyond camaraderie -- and a chance to enjoy a world class beach and wave with few others -- the group provides its members an avenue for status, prestige, and respect. Their main objective is to maintain a takeover of a public beach for private use, preserving it for themselves and their children.</p>	<p>24. Franklin Decl. Supp. Pls.’ Opp to City Defendants’ MSJ. (“Franklin Decl.”), Ex. 21, Bates CITY7090 (“Chief Kepley told me that shortly after he was hired as chief of police he learned of a long history of alleged ‘bullying and hazing’ of out-of-town surfers at Lunada Bay by local surfers, often referred to as the ‘Bay Boys.’”); See Plaintiff’s Additional Material Facts Opposition to City Defendants Motion for Summary Judgment [Docket No. 323] Nos. 163, 164, 166-168, 171, 172; RJD, Ex. A.</p>
	<p>25. The Bay Boys stick together, and refer to themselves as a “fraternity,” a “brotherhood,” and “family.” Their illegal purpose includes the objective to deter outsiders from using the coastal area and submerged tidelands so that they can have it for themselves.</p>	<p>25. Lee Dep., 88:18 to 93:7, Ex. 222 (“Q. Mr. Lee, you’ve been handed what has been marked as Exhibit 222 which is a three-page bates document, bates number Lee 00001 through 00003. (Deposition Exhibit 222 was marked for identification and is attached hereto.) Q. Have you ever seen Exhibit 222 before? A. Have I seen this? Q. Yes. A. Yes. Q. And Exhibit 222 contains E-Mails that you sent on January 7th and 8th of 2011? A. What now? Q. Excuse me. A. What now? Q.</p>

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Does Exhibit 222 contain E-Mails that
6 you sent on January 7th and 8th of 2011?
7 A. It just says, yeah, 7th and 8th, yeah. Q.
8 Yes? A. Yes. Q. And the E-Mail that's
9 dated January 7, 2011, it begins on the
10 bottom of the second page, yeah, the
11 second page? A. Uh-huh. Q. Can you
12 identify who you sent that E-Mail to? A.
13 That's Brad Ringer, I believe that one
14 might be Charlie Beukema. Q. The Roxy
15 Quinn is Brad? A. Excuse me? Q.
16 You're saying the Roxy -- A. Roxy
17 Quinn, yeah. Q. That's who? A. I think
18 that's Charlie Beukema. Q. And who's
19 next? A. Colm. Q. Collin? A. Colm, C-
20 o-l-m. Q. Oh, before that isn't there one?
21 A. Charlie Mowatt. Q. Charlie Mowatt,
22 and then Colm, and who is that? A. Just
23 another guy that surfs there. Q. What's
24 his last name? A. I believe it's Gallagher.
25 Q. Is his first name C-o-l-m? A. Yes. Q.
26 Colm Gallagher, okay, who else? A. I
27 think that next one was David Camplin.

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Q. Okay, and L.B. Control Agency? A.
6 Yeah, he just makes it. Q. That's David?
7 A. Yeah. Q. And who's next? A. Dave
8 Mello. Q. Okay. Who's next? A. David
9 Millcreek. Q. Okay. Who's next? A.
10 Derek Debraal. Q. Who's next? A. Eric
11 Binz. Q. All right. Who's next? A. Geoff
12 Dsena. Q. Okay. Who's next? A. Greg
13 Jehelkas. Q. Who's next? A. Jay Duston.
14 Q. Who's next? A. Joe Bark. Q. Who's
15 next? A. John Camplin. Q. Who's next?
16 A. Andy Patch. Q. Okay. Who's next?
17 A. Art Rozzi. Q. Who's next? A. Mark
18 Griep. Q. Does Mark spell his name with
19 a "K" or a "C"? A. I don't know. Q.
20 Okay. A. And Michael Papayans. Q.
21 Who's next? A. I don't know who that
22 one is, Woody. Q. Woody Ris at Yahoo
23 Dot Com, you don't know? A. Yeah. Q.
24 Who's the next one? A. The next one
25 could be Peter Babros. Q. Spell his last
26 name. A. B-a-b-r-o-s. Q. Okay. Who's
27 next? A. I don't know that one, Redondo

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Beach. don't know that one. Q. Who's
6 next? A. Reno Caldwell. Q. Who's next?
7 A. Steve Fairbrother. Q. Who's next? A.
8 Tom Sullivan. Q. That's quite a list. Go
9 ahead. A. And one thing I think that you
10 asked me about the ashes, I think there
11 has been one time that they spread the
12 ashes of Danny [Camplin], I think.
13 Q. Were you present for that? A. Yeah,
14 but there were a lot of people there. So, it
15 was like, you know. Q. So, you were
16 present when Danny Camplin's ashes
17 were spread in the water at Lunada Bay; is
18 that correct? A. I was there for the
19 ceremony, yeah. Q. And when was that?
20 A. I think he died in '96. So, it was
21 probably in '96 I think or maybe the
22 following year in '97, but maybe in '96.
23 "); Lee Dep., 158:3 to 165:11, Ex. 224 ("
24 MS. POOLEY: Mr. Lee, you've been
25 handed a one-page document that has
26 been marked as Exhibit 224 to your
27 deposition and is bates stamped Lee

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 00000591. Deposition Exhibit 224 was
6 marked for identification and is attached
7 hereto.) Q. Have you seen Exhibit 224
8 before? A. Yes. Q. And Exhibit 224
9 contains an E-Mail that you sent on
10 January 2nd, 2011, on the lower portion;
11 correct? A. Yes. Q. And who did you
12 send that E-Mail to? A. The one on the
13 bottom? Q. Yes. A. That's the New
14 Year's resolution. This is the one I
15 believe that you guys -- I believe this is
16 the one that started the chain of E-Mails.
17 This is the first one. Q. And so who did
18 you send it to? A. I don't know exactly,
19 but it was a group, I believe. Q. The
20 same group that's listed on the second
21 page of Exhibit 222? A. I couldn't tell
22 you, but it was a group, yeah. Q. There's
23 a reference to, at least not in a peak; what
24 is the peak? A. That's the furthest out.
25 Q. The furthest out from where? A.
26 Further, like if here's this land, and the
27 waves break this way. The guy sitting the

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 furthest out on the peak. Q. At Lunada
6 Bay? A. Yeah. Q. Okay. A. Peak
7 means where the wave starts to break. Q.
8 And then you say, to tell you the truth, I
9 would rather see an empty unridden wave
10 at the point then to see certain people
11 riding them. And where is the point? A.
12 That's the right, where we surf. Q. At
13 Lunada Bay? A. Yeah. Q. And who are
14 the certain people you would not like to
15 see riding a wave and prefer an unridden
16 wave? A. I wouldn't really care, but if I
17 was there, just the takers, you know. Q.
18 And who are the takers that you were
19 referring to here? A. Like Troy, you
20 know. Q. Anyone else? A. There was
21 Chris, but he really doesn't surf there. Q.
22 So, were you only referring to Chris? A.
23 Chris, me and him have personal kind of
24 issues, not in the water. So, I just feel like
25 he's not a real good person, you know.
26 Other people might differ. So, me and him
27 have a difference. It has nothing to do

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 with surfing. Q. When you say certain
6 people, on this E-Mail of Exhibit 224,
7 were you referring to anyone other than
8 Troy? A. No, no. Q. Because it reads as
9 more than one person when you say
10 people. So, that's why I'm asking. A. No.
11 You've got to understand, I wrote this
12 like kind of like you get all, obviously,
13 you can listen to me, I'm not the best
14 grammar, not talking stuff. So, I'm just
15 punching stuff in. It might not be perfect
16 grammar. I might use words that mean
17 differently, but so. Q. So, Buffalo head is
18 Troy? A. Yes. Q. And then there's a
19 reference to a faggot knee boarder who
20 rides a Stavros surfboard; is that Troy? A.
21 No, that's Chris. Q. Chris -- A. Peterson.
22 Q. So, you were referring to Chris
23 Peterson as well? A. Yeah. Q. Is Chris
24 Peterson gay? A. No. And I have to say
25 that I was ignorant. I should not say that
26 calling him a faggot. I'm not. I should not
27 have said that. He's not gay Q. And then

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 you say, and does Chris Peterson ride a
6 knee boarder? A. Yes. Q. And it's a
7 Stavros knee boarder? A. That's the
8 person who made it. Q. Okay. And you
9 say, nothing against Mike; who are you
10 referring to; who is Mike? A. That's
11 Mike Stavros, that's the guy. Q. You
12 weren't calling Mike Stavros a taker, he's
13 just the one who made the knee board; is
14 that correct? A. No. Mike doesn't live in
15 P.V. He lives in San Pedro. That's a
16 totally different group. Q. You weren't
17 referring to Mike as someone you didn't
18 want to see riding the wave; is that
19 correct? A. Mike Stavros? Q. Yes. A.
20 No. I get along with Mike. Q. And then
21 there's a reference to, one who makes
22 millions and drives around in his
23 \$100,000 car, but never gives -- A. Uh-
24 huh. Q. -- who is that? A. Yeah, Mark
25 Aricco. Q. Mark who? A. Mark Aricco.
26 Q. Spell his last name. A. A-r-i-c-c-o. Q.
27 Okay. And then were you referring to him

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 as some of the certain people that you
6 would rather not see riding the wave? A.
7 No, me and Mark we have our ups and
8 downs. I've known him since we were in
9 high school. He makes a lot of money. I
10 wish that he would do more to help out
11 the community. Show up for trash pickup.
12 Q. In your view is Mark Aricco a taker?
13 A. It's hard to say because he's a nice
14 guy. I get along with Mark, if I saw him
15 right now even though I wrote this. I'm
16 totally cordial with Mark, you know. Q.
17 That's not really my question. Do you
18 consider Mark Aricco to be a taker? A.
19 Sometimes when he acts like it, but lately
20 he has been, he's trying to change, I think.
21 Q. So, in January of 2011 did you think of
22 Mike Aricco as a taker? A. Yes. Q. And
23 he grew up where? A. He grew up in
24 Palos Verdes, also. It's Mark Aricco. Q.
25 Thank you. So, next you wrote, next time
26 you're out in the water and you see one of
27 these takers taking another wave from

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 your promised land, our church, slash,
6 home, slash, sanctuary, slash, temple,
7 paren, don't think twice and let's take
8 back what they're taking from us; do you
9 see that? A. Yes. Q. And what did you
10 mean by taking back what they're taking
11 from us? A. Well, I just, nothing specific.
12 I just feel that they could do more, you
13 know. They just take waves. They grew
14 up there. They should appreciate it. So,
15 that's what I basically. Q. When you say
16 that, that you and the people that you're
17 sending this E-Mail to, let's take back
18 what they're taking from us, how would
19 you take back? A. Oh, I just mean maybe
20 ride together. We'll just burn them. Q.
21 So, drop in on them and burn them on
22 their wave? A. Yeah, that was my
23 suggestion, but understand that the people
24 don't because I said that, they don't do
25 what -- everybody is an individual. Q. So
26 then you wrote, do not feel guilty when
27 taking back what was ours in the first

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 place. What were you referring to as
6 yours in the first place? A. Well, I just
7 feel like, I keep it clean. I feel that it's my
8 home. I feel close to it, you know. I put in
9 a lot of time and I put in a lot of effort to
10 keep it clean. Keep it, you know, semi,
11 keep it all respectful and stuff. I have a
12 deep feeling for the place. So, that's what
13 I meant. Q. And you are referring to
14 Lunada Bay in particular -- A. Yes. Q. --
15 as your home -- A. Yes. Q. -- and your
16 church and your sanctuary and your
17 temple? A. Sure, yes, yes."); Pltfs.' RJD
18 Supp. Opp to City MSJ., Exs. A & B
19 [7/5/91 & 5/8/95 LA Times Articles];
20 Wolff Decl., ¶ 39, Exs. 43 [Transcript of
21 C. Ferrara Audio Recording] and 38
22 [PLTF002027: "it's like a fraternity.
23 They're going to be a dick to you because
24 they want to see how bad you want it.
25 You know what I mean, like a fraternity,
26 they're going to make you drink frickin'
27 piss to see how bad you want to be in this

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 fraternity"; also stating "we are family"];
6 RJN, Ex. A; see also, PAMF 31.

7 26. The Bay Boys have a pecking order,
8 where: (a) the veterans are older Bay
9 Boys who helped shape the rules and
10 have the greatest status and privileges,
11 (b) the hardcore are those who enforce
12 the rules, and (c) the associates are
13 those hoping to move up in status, or
14 alternatively, those who are alumni who
15 have moved away and return
16 occasionally. Wannabes must earn a
17 position, and outsiders have no place.

18 26. Lee Depo., 211:8-12 (explaining "a
19 pecking order" among the surfers at
20 Lunada Bay and "no one really goes
21 beyond it. Lunada Bay people that surf
22 there regularly . . . pretty much know[]
23 where they sit."), 44:3-7 ("Q. When you
24 say – when you talk about paying dues,
25 what do you mean? A. Just like what I
26 just explained, just putting in your time in
27 a place. Respecting the people that were
28 there before you, you know, just little
 things."); Wolff Decl., Ex. 8 at Lee
00000001 [Sang Lee email January 8,
2011: "i [sic] was brought up this way by
u [sic] guys (the older boys ([sic] not the
fluffy powder puff ones but the real solid
ones [sic] u [sic] guys made
up the rules n [sic] term[s] of engagement
n [sic] I WILL DIE BY THESE RULES"
(emphasis in original), Lee 00000595
[email from Bay Boy Tom Sullivan to

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	Sang Lee dated January 16, 2014, directing Defendant Lee to alert “the whole crew” to a surfing event scheduled to occur at Lunada Bay which was organized by outsiders “so everyone knows and we can all be on the same page”, with Bay Boy Charlie Mowat responding “I will be on the patio alllllllll [sic] day on Monday throwing out heckles and sporting a BBQ.”; Johnson Depo., 26:16-27.
16 27. At about 60 years old, Defendants 17 Frank Ferrara, and Angelo Ferrara are 18 among the older members who sit at the 19 top of the Bay Boys’ hierarchy. 20 Defendants Brant Blakeman, Sang Lee, 21 and Alan Johnston are part of the 22 hardcore enforcers. Charlie Ferrara and 23 Michael Rae Papayans are second 24 generation associates.	27. Lee Depo., 212:16-213:24, 76:18- 77:15 (Frank Ferrara has “priority” over a wave because he’s been there longer); A. Ferrara Depo. 117:13-19 (identifying Brant Blakeman, Frank Ferrara, Sang Lee, and Alan Johnston as several of “the top ten people that surf [Lunada Bay] regularly for big waves”); F. Ferrara Depo. 42:7-25, 43:1-25, 56:8-10, 87:10-13, 202:11-25, 203:1-2, 235:25, 236:1-2, 262:2-22, 264:23-25, 265:1-3; <i>see</i> Plaintiffs’ Statement of Additional

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5
6
7
8
9
10 28. The Bay Boys started as
11 schoolmates, neighbors and extended
12 family, but it grew into criminal activity
13 when they made concerted effort to
14 block outsiders from constitutionally-
15 protected submerged tidelands. As a
16 general rule, all Bay Boys are "born-
17 and-raised" local: The individual
18 defendants grew up in Palos Verdes
19 Estates, and most of them attended
20 Palos Verdes High School – which is a
21 few blocks away from Lunada Bay. (A
22 few attended Rolling Hills High School,
23 aka, Rancho Palos Verdes High School
24 because Palos Verdes High School had
25 closed for a few years due to a lack of
26 high school age students in the area.) .

10 Material Facts ISO City Defendants'
11 Motion for Summary Judgment, No. 195;
12 Wright Decl. ISO Motion for Class
13 Certification ¶¶ 11, 17, 18 [Docket
14 No. 159-9]

15 28. Barber Depo. 71:8-72:3 (Charlie
16 Mowat attended high school in Palos
17 Verdes Estates); Blakeman Depo. 49:5-9
18 (attended Palos Verdes High School),
19 72:24-73:2 (Defendant Alan Johnston
20 grew up approximately three blocks away
21 from Blakeman), 103:23-24 (Defendants
22 Blakeman and Lee have known each other
23 for approximately 25 years); A. Ferrara
24 Depo. 27:2-3 (attended Palos Verdes High
25 School); C. Ferrara Depo. 19:14-20
26 (attended Palos Verdes Peninsula High
27 School); F. Ferrara Depo. 21:12-13
28 (attended Palos Verdes High School);
Johnston Depo. 17:24-18:5 (graduated
from Palos Verdes Peninsula High
School); Lee Depo. 27:14-15 (attended
Palos Verdes High School), 127:10-14

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 (explaining that a non-local is someone
6 who did not grow up in Palos Verdes
7 Estates or attend a high school); N.F.
8 Depo. 93:9-18 (stating his family,
9 including his father, Defendant Angelo
10 Ferrara, grew up together with the family
11 of a current PVE Police Officer, Sean
12 Crisfield); Johnston Depo. 42:20-43:1
13 (Johnston has surfed at Lunada Bay "with
14 pretty much everyone on the defendant
15 list"); RJN, Ex. A.

16 29. The Bay Boys have established
17 rules, terms, or practices that its
18 members must follow. The foremost
19 rule is come alone and don't bring a
20 friend. And the second most important
21 rule is deter outsiders from coming, i.e.,
22 deter them, block them, threaten them,
23 "bark" or yell at them, provoke them,
24 hurl pejoratives at them, damage
25 property, surf recklessly near them, do
26 not follow surfing etiquette near them,
27 fight them if necessary, film them,

29. Lee Depo. 118:10-20, 119:14-15,
120:24-121:1, 123:7-8, 22-23 (although
there is no "written rule book" there is "an
understanding" among local surfers at
Lunada Bay as to the ground rules for
surfing there); Johnston Depo. 63:20-64:2;
Wolff Decl., Ex. 8 at Lee 00000001 [Def.
Sang Lee Deposition Exhibit 222] ("i[sic]
am who i[sic] am (with the terms of being
a solid person, friend n a pirate) because I
was brought up this way by u guys (the
older boys)...u guys made up the rules n

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 sexually harass them, and otherwise
6 make them uncomfortable. Other rules
7 include (a) show deference to the Bay
8 Boy hierarchy, (b) maintain secrecy, (c)
9 don't share surfing photos of Lunada
10 Bay, (d) be respectful to neighbors and
11 where you park your car, and (e) don't
12 change in your wetsuit on top of the
13 bluff.

terms of engagement n I WILL DIE BY
THESE RULES ... what we have in our
backyard is priceless n u cant put a price
on it...I want to keep this place sacred like
its [sic] supposed to be....this place is not
just a surf spot... its [sic] our home n I am
not going to share it").).

14 30. The Bay Boys perpetuate and
15 enforce their rules, terms, or practices
16 by hazing and pressuring newer
17 members and potential members to
18 prove their willingness to follow these
19 rules, terms, or practices.

30. Wolff Decl., ¶ 39 & Exs. 43[Transcript
of C. Ferrara Audio Recording] and 38
[PLTF002027: they will "make you sit
down here [at the beach] when it's all
sunny or they're gonna make you walk up
to a . . . to the liquor store to go get 'em
ice for their beer and you're, you know,
tired, but 'oh, you want a slurpy? You
gotta go do that.'"]; "if they came down
and showed some respect when the surf's
good without the board, and hung out and
got to know people who surf here, know
the routes, know the background of the
people here, that's a start. That's a start.

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 The ladder's way up here because, like
6 I'm trying to say, this is all they have.”;
7 hazing is “just respect, and it teaches
8 people respect and how to be a man and . . .
9 . it's all out of love.”]; Spencer Depo.,
10 311:4-15 (Defendant Sang Lee had to
11 “start bringing beer for an amount of time
12 . . . to basically get friendly with the guys
13 down at the fort and eventually . . .
14 [there's] an amount of beer that lets you
15 get in.”); Lee Depo., 44:20-45:2, 44:5-23
16 (new surfers must “pay their dues” by
17 showing respect to the people who have
18 been there longer, including by “not
19 paddling deeper than them, getting out of
20 their way when riding waves, you
21 know.”), Lee Depo., 122:18-8, 123:13-23;
22 137:6-11; 138:4-15 (Sang Lee showed
23 respect for the older surfers by “not
24 paddling deeper than them, getting out of
25 their way when they're riding waves,”
26 “know[ing] [his] place in the line-up,”
27 come by himself, wait for hours for a

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 wave and tolerate locals dropping in on
6 him, and say nothing and have a “smiling
7 happy face” when someone dropped in on
8 him. It took him “years to gradually little
9 bit get further up, further up, further up”
10 in the line-up and 5 to 10 years before
11 locals would stop dropping in on him;
12 Johnston Depo. 26:16-27:8 (when
13 Defendant Johnston grew up, he would
14 get heckled from sun up to sun down and
15 it molded him into the person he is today).

16 31. The Bay Boys’ rules, terms, or
17 practices include the rule of “no
18 outsiders” at Lunada Bay and respect
19 those above you in the Bay Boys’
20 hierarchy.

21 Lee Depo. 86:6-11 (“it’s kind of like the
22 etiquette up in the area” to not bring
23 friends), 114:19-25 (younger locals must
24 be deferential to and respectful of the
25 older locals, meaning, “just being out of
26 their way.”), 118:10-20, 119:14-15,
27 120:24-121:1, 123:7-8, 22-23, 189:8-12
28 (“Q. Did you say, you can’t have friends
outside here because they’re going to want
to come out here and surf and you have to
pick and choose like FaceBook? A.
Yes.”); Blakeman Depo. 158:7-12 (surfers

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 at Lunada Bay nee189:8-12 ‘ to “stay[]
6 out of the way of people.”), 234:1-8
7 (Blakeman doesn’t “invite anyone to surf
8 the Bay” because “[i]f someone invited
9 someone, then they invited someone.”);
10 Hagins Decl. Supp. Pls.’ Mot. Class Cert
11 (“Hagins Decl.”), Ex. 6 [Surfer Magazine
12 interviewed Frank Ferrara in 1991 and
13 published the following statement by
14 Frank Ferrara, stating in part: “One guy
15 comes and surfs it, and then he brings two
16 or three guys and they bring three or four
17 of their friends and it snowballs and gets
18 out of hand. That’s exactly why we want
19 to protect it,” he is quoted as saying. “I’ve
20 got two little boys who are 7 and 5 and I
21 hope one day they they’ll be out there
22 shralping and tearing it up without a
23 crowd.”); Franklin Decl., Ex. 37 [Docket
24 No. 324] [The Guardian Video of Sang
25 Lee stating, “[Y]ou can’t have friends
26 outside here because they’re going to want
27 to come out here and surf and you have to

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 pick and choose like FaceBook.”; F.
6 Ferrara Depo. 149:21-25, 150:1- 22, Ex.
7 285, (“MR. OTTEN: Let’s mark that
8 document as Exhibit 285. [OBJECTION]
9 Q. This was the article that you were
10 mentioning earlier; is that correct? A. Yes.
11 Q. Do you know who did the interview?
12 A. I don’t remember the guy’s name, but
13 they called me several times. Q. Okay. A.
14 They called me several times to do an
15 interview. And I declined a couple of
16 times. And then when Jim had called me,
17 hey, would you do this, I said all right. Q.
18 Right. A. So then I agreed to do it. Q. And
19 when you say Jim, that’s Jim Russi; is
20 that correct? A. Yes. Q. Was Jim working
21 for, is it Surfer? A. Yeah, Surfer. Q. Was
22 Jim working for Surfer? A. Yeah. I
23 believe that Jim worked for about Surfer
24 and Surfing at the same time, both
25 magazines.”), 156:11-25, 157:1-2, 159:23-
26 25, 160:1-3, 160:9-25, 161:1-4 (“Q. Okay.
27 So, he says to you in this article, 14:15:38

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 what is your -- A. I know it by heart. Q.
6 What's your local spot. And you say, just
7 call it a secret spot. A. Uh-huh. Q. What
8 did you mean by that? A. It's none of
9 anyone's business where I surf. If the
10 article was about me, why would they talk
11 14:16:08 about the surfing spot. Q. I don't
12 know. A. I'm just sharing with you.
13 That's why he didn't need the name of it.
14 Q. Why not just say Lunada Bay? A. It
15 doesn't need to be exposed.
16 [OBJECTION] A: That was my choice.
17 Q. When you say, the people who have
18 come up there in the past haven't really
19 respected it, excuse me, what did you
20 mean by that? A. Probably people that
21 don't surf there on a regular basis is
22 maybe what I meant at that time.
23 Remember, it's 1991. Q. And have your
24 opinions with respect to anything about
25 Lunada Bay changed as you've gotten
26 older? [OBJECTION] A. Well, I'm glad
27 that they got rid of the patio. Q. I figured

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 you would be; right? A. That's how it was
6 when I started surfing there. There was no
7 patio. It seems like it's brought back to the
8 same environment. Q. That was the idea.

9 A. You guys did it, so, there it is. Q. And
10 that's a good thing for you; right, I mean,
11 who wants to go party at the beach if
12 you're there to go surfing; right.

13 [OBJECTION] A: I didn't care, either
14 way, but that's how it was when I started
15 surfing there. So, me personally, that's
16 how it was when I started, so, it's nice."),
17 F. Ferrara Depo. 166:11-25 167:1-11 ("Q.

18 All right. We're almost at the end of this.

19 Do you see where it says, as far as
20 pecking order goes at Palos Verdes, are
21 you on the upper ring. You say there are
22 some older guys that surf there, but we're
23 still fanatics; what did you mean by that?

24 A. Well, the older guys that surf there now
25 live in Hawaii. They were from, believe it
26 or not, Hermosa. They were Hermosa
27 guys that were the older guys. And then

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 the guys like three to five years above me
6 that I started surfing with, it was like the
7 wave at Lunada Bay, you kind of find a
8 spot where you would like to sit. And
9 that's where you would want to sit. And
10 that's where they would call it kind of the
11 pecking order. If you want to choose the
12 most critical or non-critical, towards the
13 end of the wave or deep spot on the wave.
14 That's what we meant by the pecking
15 order. Q. So, the younger people give
16 deference to the older folks that have been
17 surfing there longer? A. I believe it's the
18 older folks have found a spot in the line-
19 up where they like to sit and takeoff."),
20 168:22-25; 169:1-25; 170:1-25; 171:1-10;
21 174:18-25; 175:1-7 ("(Deposition Exhibit
22 287 was marked for identification and is
23 attached hereto.) Q. This is entitled,
24 Today's Lesson: Don't Be A Kook. And I
25 think that you said that this was what you
26 wrote in response to the last exhibit which
27 was called, Teach the Children Well? A.
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Yes.[OBJECTION] Q. And you wrote
6 this; correct? A. Yes. Q. And did you
7 write it in the year of 1992? A. Whenever
8 the date was. Q. So, this is responding, it
9 says, responding to Teach The Children
10 Well letter, February of 1992; it would
11 have been in that time frame? A. Yeah. Q.
12 You say responding to the Teach The
13 Children Well letter, February of 1992 by
14 the Kook, Don Boller, of Long Beach,
15 California. I know there's no surf in Long
16 Beach, Don. So now I know why you
17 have to travel to surf. That's your
18 problem, not mine. Q:What did you mean
19 by that? A. Just what it says." F. Ferrara
20 Depo., 220:1-16; "Ferrara acknowledged
21 that he was quoted Surfer Magazine in
22 1991, explaining that the Peninsula
23 surfers, quote, protect the break so it can
24 be enjoyed by them and their children
25 without a crowd. A. I didn't state that like
26 that. Q. Okay. What's wrong with the way
27 that she wrote it? A. Well, she said Ferrara
28

1	Issue #3: <u>The Individual Defendants Are Engaged in a Conspiracy to</u>
2	<u>Exclude Outsiders from Lunada Bay.</u>
3	Plaintiffs' Additional Material Facts:
4	Evidence in Support of Plaintiffs' Additional Material Facts:
5	acknowledged he was quoted in Surfer Magazine in 1991 explaining that Peninsula surfers protect the break so it can be enjoyed by them and their children without a crowd. She missed shralping it up without a crowd. Q. Okay. A. It sounds a little fun. Lighten it up. You got the shralping; right."); Johnston Depo. 35:3-10 (Johnston has never brought any friends from outside the area to surf at Lunada Bay because he thinks "it's just disrespectful just for everyone that has paid dues to grow up there or just – it's just something that you don't do in the surfing world."); A. Ferrara Depo. 64:24-65:2 ("Yeah, that's always kind of etiquette, you know. Like, wait your turn. A lot of people don't understand that. They just keep coming back for another wave everywhere."), 140:11-13 ("Do other people that surf Lunada Bay welcome outsiders? No.").
27	32. Defendants Angelo Ferrara and
28	32. Lee Depo. 121:5-16, 107:17-24; Wolff

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Frank Ferrara (father to Defendant
6 Charlie Ferrara), "made up the rules
7 [and] terms of engagement" decades
8 ago.

Decl., Exs. 8 [Def. Sang Lee Deposition
Exhibit 222, Lee 00000001]; 43
[Transcript of C. Ferrara Audio
Recording], & 37 [PLTF002027: "It's the
way it's been here for . . . as long as my
dad was a kid. My dad's 59 years old.
For 59 years it's been like that. Who are
you to come here and change
something?"]]; Wright Decl. ISO Motion
for Class Certification ¶17 [Docket
No. 159-9].

16 33. The Bay Boys' purpose and
17 common effort is to exclude "outsiders"
18 or "non-locals" from visiting or surfing
19 at Lunada Bay.

33. Wolff Decl., Exs. 8 [Def. Sang Lee
Deposition Exhibit 222, Lee 00000001]
(Lunada Bay "is not just a surf spot" but
instead "its [sic] our home . . . n [sic] I am
not going to share it with people who r
[sic] selfish n [sic] not understanding of
their surroundings."); "I want to keep our
home the way it should be kept (nice n
[sic] clean with no takers)."); Lee Depo.,
93:8-24; 125:21-126:3 ("everything would
get destroyed" and it would "ruin
everything" if outsiders were allowed to

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 surf at Lunada Bay); Wolff Decl., ¶ 39 &
6 Exs. 43 [Transcript of C. Ferrara Audio
7 Recording] and 38 [PLTF002027:
8 [Charlie Ferrara stating “the reason is one
9 person gets along – oh, they’re cool –
10 everyone gets along, and then it turns into
11 Rincon and Malibu. Oh, they got the
12 sweet ticket . . . why didn’t I get the
13 golden ticket? Trust me, it’s how it
14 goes.”]; RJN, Ex. B & Wolff Decl. ¶ 45
15 [5/8/95 LA Times Article] (the exclusion
16 of outsiders is “not just a barbaric thing, it
17 is done for a purpose.”); Blakeman Depo.
18 298:20-299:7; 301:19-24; 307:14-21 (“Q.
19 Would it be, in your opinion, safer if there
20 were trail improvement? . . . A. I think it’d
21 be more dangerous because more people
22 would access it”); Pltfs.’ RJN Supp. Opp
23 to City MSJ., Ex. A [7/5/91 LA Times
24 Article (The Bay Boys exclude outsiders
25 so they can “have [their] own little
26 sanctuary” while other beaches are filled
27 with intense crowds.)]; Johnston Depo.
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	5 26:16-28:2 (Johnston believes that the 6 Lunada Bay "surf break is just really 7 crowded and there isn't any excess waves 8 for outsiders"), 28:2-15 (outsiders are 9 "people who don't know everybody at the 10 surf break," referring to Lunada Bay).
11 34. The Lunada Bay locals have a gang 12 mentality, and attempt to dissuade 13 outsiders from coming to City. They 14 are territorial, discourage outsiders 15 from using the beach, and intimidate 16 outsiders. 17 18 19 20 21 22 23 24 25 26 27 28	34. Best Depo. 157:22-25, 158: 1-25, 159:1-21; Kepley Depo. 67:15-27, 68:1- 12 ("Q: Now, you said that the Bay Boys have a gang like mentality or a gang mentality, what did you mean by that?...[objections and colloquially]... A: Okay. So the gang like mentality that I referred to was the way in which gangs, street gangs, often claim a territory. And will confront people who come into their territory, where you from, what are you doing, type of thing. Some of what was relayed to me with respect to those involved in disputes down on Lunada Bay in dissuading them from coming to surf there, because they are not from there. That was a similarity to how some gang

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 members might speak to a person coming
6 into a particular area."); Kepley Depo.
7 221:4-8 ("Q: Earlier you said you thought
8 they had a gang mentality, but they are not
9 a gang because they are not shooting
10 people and they are not stabbing people; is
11 that right? A: I did make statements like
12 that, yes.); Franklin Decl. ¶26, Ex. 18; see
13 also Plaintiffs' Additional Material Facts
14 ISO Opp. to City's MSJ. Plaintiffs'
15 Additional Material Facts [Docket No.
16 323] Nos. 163, 166, 171, 172.

17 35. The Bay Boys' longstanding rules,
18 terms, or practices include harassing
19 and intimidating "outsiders" who visit
20 or try to surf at Lunada Bay, including
21 through seeking to have large numbers
22 of Bay Boys present when visitors
23 come to Lunada Bay, directing
24 pejoratives at outsiders ("faggot"
25 "bitch" "whore" "kook" and even
26 dressing in black face on Martin Luther
27 King Jr. Day), approaching visitors

35. Neushul Decl. ISO Motion for Class
Certification ¶18 [Docket No. 184-1]
("Because of its reputation, most non-
City-residents and visiting surfers avoid
Lunada Bay. This is because of the Bay
Boys' efforts to discourage visitors from
coming to Lunada Bay is a deterrent.
Indeed, while it's a prized wave, Lunada
Bay is known to only have a few surfers
using it."); Neushul Decl. ISO Motion for
Class Certification ¶19 [Docket No. 184-

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 aggressively, blocking paths to the
6 shoreline, telling visitors they cannot or
7 should not be coming to Lunada Bay,
8 heckling, starting or trying to start
9 fights, throwing rocks, vandalizing cars,
10 circling surfers in the water so that they
11 cannot catch waves, and “dropping in”
12 on or “burning” surfers.

13 1] (“I have long known of the reputation
14 of the Bay Boys as a longtime resident of
15 Southern California, surfer, and a surf
16 historian.”); Barber Depo. 101:8-22 (“Q:
17 How about a name, Peter McCollum? Do
18 you know that name? A: I know the
19 name. Q: How do you know the name?
20 A: He was involved in an incident – ‘95.
21 I don’t know. I has just gotten on, I
22 believe. There was a – an argument, and
23 it made the news. I know he was on it. I
24 know the video shows him kid of yelling
25 on the video, but that’s all. I’ve never met
26 Mr. McCollum in my life, though. Q:
27 Okay. So the video of Mr. McCollum
28 yelling on the top of the bluff – I think it’s
Mr. Hagens and Hamboy [sic] [a boy].
Do you recall seeing the video? A. Yes, I
did see that. Q. When did you see that?
A. Probably not long after it happened.”);
Franklin Decl.¶17, Ex. 16,¶¶ 18,19
(“You got it son? You got it? Hey, I’m
not touch’n nobody. Nothing. But you

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 won't surf here again boy. You won't
6 surf here again. Fuck that. Fuck you
7 guys. I've lived here too long for this
8 shit."); Blakeman Depo. 230: 16-25 ("Q:
9 Have you ever heard of someone standing
10 at the top of either the Middle trail or the
11 Point trail questioning why they're there,
12 in terms of using Lunada Bay? A: I'm
13 aware of the Peter McCollum incident.");
14 Johnston Depo. 212:20-213:8 (saying that
15 circling another surfer is the worst thing
16 you could do to someone and likely to
17 make them mad. And, see, e.g., Bacon
18 Decl. ISO Motion for Class Certification
19 [Docket No. 168]; Carpenter Decl. ISO
20 Motion for Class Certification [Docket
21 No. 161]; C. Claypool Decl. ISO Motion
22 for Class Certification [Docket No. 176];
23 K. Claypool Decl. ISO Motion for Class
24 Certification [Docket No. 166], Claypool
25 Decl. Supp. Pls.' Mot. Class Cert.
26 ("Claypool Decl."), ¶¶ 12 ("On November
27 5, 1995, I attended "Take Back Our Public
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Beaches Day -- Surf Lunada Bay Peaceful
6 Protest," a public protest of localism in
7 Palos Verdes which was organized by
8 Geoff Hagens. There were people on each
9 side yelling at each other and lots of
10 screaming. But a few Lunada Bay locals
11 were becoming extra aggressive.... with
12 the Bay Boys screaming and
13 demonstrating physically threatening
14 behavior. It seemed like the locals wanted
15 to start a fight someone called in a
16 bomb threat and the police made the
17 visitors and others on the shoreline leave
18 the beach."), ¶ 14 ("The first time that I
19 attempted to surf the point where the
20 Lunada Bay locals primarily surf,
21 however, was quite a different experience.
22 ...As soon as I reached the lineup, the
23 person began to hassle me. He paddled
24 over and stated: 'So you are bringing the
25 whole circus?' He was about 45 years
26 old. Even though it was not crowded, this
27 person purposefully and dangerously

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 proceeded to drop in on me on about five
6 waves. I am confident he was attempting
7 to discourage me from returning by trying
8 to make my experience that day
9 completely miserable."), ¶ 19 ("One
10 morning in February 2014, I went to surf
11 Lunada Bay and arrived at 4:45 am. I
12 walked to an area of the cliff north of the
13 trail to check the waves. Suddenly two
14 guys walked up to me - one on each side.
15 They stood unusually close to me,
16 particularly since I did not know them,
17 and stared at me in an effort to intimidate
18 me. I was so frightened that I walked
19 back to my truck but the two men
20 followed me. The guy on my left was
21 large with sandy blond hair and looked
22 middle aged. The guy on my right and had
23 brown or black hair and was thinner and
24 younger. I did not feel safe so I got in my
25 car and left."); 20-21 ("March 11, 2014
26 was the first time that I surfed Lunada Bay
27 sincemany years before.... I drove

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 there with my friend Tom Wolley who
6 stayed on the top of the bluff with a
7 camera and cell phone. As I walked down
8 the 'goat trial' nearest the point in front of
9 the Rock Fort, a teenager passed me and
10 turned around. I think it was Angelo
11 Ferrara's son. Slowly walking backwards,
12 the teenager said: 'You are the one
13 posting on Facebook. You shouldn't be
14 here. Kook. You are starting shit on FB.'
15 Around this time, people were posting
16 things on the Aloha Point Facebook to
17 encourage outsiders to surf at Lunada
18 Bay. I guess this kid thought I had
19 something to do with it. I then attempted
20 to make my way down the goat trail to the
21 water, but because I had never proceeded
22 down the trail before and because it is not
23 marked, I accidentally took a turn down a
24 wrong extension and could have fallen. It
25 was extremely frightening. When I
26 eventually made it to the bottom and
27 started putting on my wetsuit, one of the
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 local surfers immediately got in my face.
6 He was about 5'10 and wearing faded
7 jeans. He was within inches of my face
8 yelling how stupid I was and that I had no
9 business being down there. I could feel
10 spit from his mouth hit my face as he
11 screamed: Go out in the water and see
12 what happens. You should just go now.
13 Get out of here now. You're lucky you did
14 not have to be rescued. After that guy
15 left, another local came over and made
16 similar comments. One after another, still
17 more locals would come over and say the
18 same thing: You shouldn't be here – you
19 are not going to catch a wave, go out there
20 and see what happens. I ended up
21 paddling out but never went to the peak in
22 an effort to avoid them. I caught a few
23 smaller waves while sitting in the water
24 close to the beach."), 23 (in January 2015,
25 Brant Blakeman yelled at K. Claypool
26 while he was in the water at Lunada Bay,
27 stating "Try and catch a wave and see

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 what happens. There is no fucking way
6 you're getting a wave."); Wright Decl.
7 ISO Motion for Class Certification ¶ 4
8 [Docket No. 159-9] (When Wright visited
9 Lunada Bay with a friend when he was
10 about 16 years old, "two men in their 30s
11 or 40s who were on the bluff walked over
12 to us and said things including: (a) 'You
13 can't surf here;' (b) 'You will have a
14 terrible time if you paddle out here;' (c)
15 'If you try to go out, everyone will drop in
16 on you;' and (d) 'You won't catch any
17 waves if you try to paddle out here.'
18 These men, whom I believe to be Bay
19 Boys, followed us back to the car where
20 my friend's mother waited, and escalated
21 their verbal threats."); Wright Decl. ISO
22 Motion for Class Certification ¶ 9 [Docket
23 No. 159-9] (On January 6, 2012, when
24 Wright visited Lunada Bay and was
25 harassed by Bay Boys upon approaching
26 the shoreline, he got in the water and "was
27 verbally accosted by a new group of Bay

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Boys, who yelled at me and called me a
6 'fucking kook.' They said, 'What the
7 fuck are you doing surfing here?' Any
8 time I attempted to paddled to the main
9 break, they also said, 'Get the fuck back
10 on the inside. You can't surf out here.' I
11 was dangerously dropped in on several
12 times, which forced me go left towards the
13 rocks and away from the breaking waves.
14 The Bay Boys also shot their surfboards at
15 me in an attempt to knock me off waves
16 as I was catching them."); Wright Decl.
17 ISO Motion for Class Certification ¶ 12
18 [Docket No. 159-9] (Wright "had been
19 waiting my turn for waves and was the
20 deepest outside and closest to the peak
21 when a set wave came through. By regular
22 surfing norms, I had priority. I caught the
23 10- to 12-foot-high wave and was up
24 riding for several seconds. A person
25 whom I now understand to be Alan
26 Johnston paddled the wrong way on this
27 wave, dropped in on me going the wrong

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 way on the wave, and yelled, 'Oh no, you
6 don't!' Dropping in on a surfer while
7 going the wrong way is well known to be
8 against normal surf etiquette. Alan
9 Johnston then collided with me, and our
10 leashes got tangled. After we surfaced
11 from the collision, Johnston then got close
12 to me and yelled, 'You had to fucking
13 take that wave, didn't you!' I took off my
14 leash to get untangled as we were still in
15 the surf and held the leash close to my
16 board. Because there was no flex in my
17 leash since I was holding it close to the
18 board, the next wave that came through
19 then broke my leash plug and the board
20 was carried into the rocks, breaking my
21 board up badly— essentially ruining a
22 new board. I had to swim in over rocks to
23 get my board and cut my hands on the
24 rocks doing so. In my more than 20 years
25 of surfing, I'm confident that Johnston
26 was attempt[ing] to purposefully injure
27 me."); Wright Decl. ISO Motion for Class

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Certification ¶ 13 [Docket No. 159-9] (A
6 Bay Boy yelled “fucking faggots” as
7 Wright was getting ready to go down to
8 surf with Ken Claypool. “The person who
9 called us ‘faggots’ later returned when I
10 was leaving and attempted to tell me how
11 I could surf Lunada Bay: ‘Go early, come
12 alone, and don’t bring a GoPro or you will
13 be a target to be hassled.’“); Wright Decl.
14 ISO Motion for Class Certification ¶ 15
15 [Docket No. 159-9] (After a devising a
16 system to arrive early to avoid the Bay
17 Boys’ harassment, on one early morning,
18 “two younger surfers, who I understand to
19 be Bay Boys, were already in the water.
20 These two were in their mid-to-late 20s. I
21 believe one of them could have been one
22 of the younger Ferrara boys. They said
23 words to the effect of, ‘You think you can
24 sneak up on us by paddling across the bay
25 from Middles and surf here? No way.
26 You can’t surf today.’ I explained that I’d
27 talked to Zen Del Rio and that he said it

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 was okay if I came alone and came out
6 early. They said, 'Don't name-drop out
7 here.' And then, they paddled up within a
8 few feet of me. They yelled, 'We can do
9 this the easy way—you paddle in right
10 now. Or we do it the hard way, and you
11 paddle in with a broken nose.' They
12 raised their arms like they were going to
13 hit me; I believed they intended to carry
14 out their threat to harm me. I paddled in
15 because I felt they would make good on
16 their threat to cause me harm."); Conn
17 Decl. ISO Motion for Class Certification
18 [Docket No. 174]; Gero Decl. ISO Motion
19 for Class Certification [Docket No. 170];
20 Gersch Decl. ISO Motion for Class
21 Certification [Docket No. 162]; Hagins
22 Decl. ISO Motion for Class Certification
23 [Docket No. 178]; Innis Decl. ISO Motion
24 for Class Certification [Docket No. 165];
25 Jongeward Decl. ISO Motion for Class
26 Certification [Docket No. 177]; Krell
27 Decl. ISO Motion for Class Certification
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 [Docket No. 180]; Lanning Decl. ISO
6 Motion for Class Certification [Docket
7 No. 172]; MacHarg Decl. ISO Motion for
8 Class Certification [Docket No. 160];
9 Marsch Decl. ISO Motion for Class
10 Certification [Docket No. 179]; Neushul
11 Decl. ISO Motion for Class Certification
12 [Docket No. 173]; Otten Decl. ISO
13 Motion for Class Certification [Docket
14 No. 159-3]; Perez Decl. ISO Motion for
15 Class Certification [Docket No. 164];
16 Sisson Decl. ISO Motion for Class
17 Certification [Docket No. 169]; Will Decl.
18 ISO Motion for Class Certification
19 [Docket No. 163]; Young Decl. ISO
20 Motion for Class Certification [Docket
21 No. 167]; Ollinger Decl. ISO Opp to City
22 MSJ, ¶¶ 6, 8, 9, 10; Pinkerton Decl. ¶¶ 5-
23 7; *see also* Plaintiffs' Statement of
24 Additional Material Facts ISO Opposition
25 to City Defendants' Motion for Summary
26 Judgment [Docket No. 323] 155 ("During
27 the first Lunada Bay Martin Luther King,
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Jr. Day event on January 20, 2014, with
6 City police present, a native Hawaiian
7 (and later Coastal Protection Ranger
8 volunteer) Christopher Taloa was told by
9 a local wearing blackface and an afro wig:
10 'You don't pay enough taxes to be here.'),
11 156 ("When Taloa attempted to surf
12 Lunada Bay, he was asked: 'Who are the
13 black guys on the cliff?' And then he was
14 told by a local surfers that they owned the
15 local police and judges. Taloa was
16 threatened with this: 'I'm going to have
17 you arrested and have you f*#@#&% in
18 the ass by a black or Mexican in the
19 holding cell.') 157 ("In an effort to deter
20 outsiders, local surfers direct pejoratives
21 at them like 'kook,' 'gook,' or 'fucking
22 faggots.'), 158 ("City admits few persons
23 of color and few others in protected
24 categories use Lunada Bay. "), C. Ferrara
25 Depo. 84:6-7 ("I feel like prejudices over
26 in Hawaii. They really didn't like white
27 people."); Johnston Depo. 100:1-25

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 (Johnston says the word "gay" means
6 "lame" in surfer talk, which is how he
7 uses it.), 100:13-14; 103:8-14 (Johnston
8 says "super gay" he means "super lame."),
9 101:5-10 (Johnston wears a shirt with
10 "LGBT" on it, with pictures depicting
11 "liberty, guns, beer, and tits" as the true
12 meaning for him.).

13 36. Over the years, the Bay Boys have
14 revised and perfected their strategy of
15 exclusion, aiming to make outsiders'
16 experiences at Lunada Bay so miserable
17 that they won't come back.

18 36. Wolff Decl., ¶ 39 & Exs. 43
19 [Transcript of C. Ferrara Audio
20 Recording] and 38 [PLTF002027 (Charlie
21 Ferrara, stating: "I can't tell you you can't
22 be down here. I can't tell you that, you
23 know. I can't tell you you can't go
24 surfing, but what I can do is make sure
25 you don't have fun out there. You know
26 what I mean? And then what's the point
27 of that? You're going to come here when
28 the surf's good everywhere else and get
burned and have a bad day? That's, cuz
that's, you know, that's what we're gonna
keep on doing. They want to come out
we're just gonna keep on burning them

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 and make them have a bad session
6 because we're going to stick together and
7 like attack cuz we are. We are family";
8 "They've been recorded and stuff while
9 they're, you know, rousting [outsiders]
10 and get recorded and they get in trouble . . .
11 . that's why now we're not, you know,
12 doing stuff, and now we're just burning
13 people."]; Wolff Decl., Exs. 8 [Exhibit
14 223 to Lee Deposition, Bates Lee
15 000000015 (Defendant Sang Lee
16 reminded other Bay Boys in an email of
17 their preferred strategy to exclude
18 outsiders: "[I] do NOT want to see my
19 friends get in trouble with the law / theres
20 [sic] other options to deterr [sic] outsiders
21 from surfing our home such as we can ride
22 together or its [sic] a long walk up the trail
23 in bare feet." Defendant Lee further
24 explained that he did not want to see other
25 Bay Boys "so fired up on trolls" that they
26 "immediately get[] into fights or
27 threaten[] the outsiders n [sic] get into

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5
6
7
8
9
10 37.Exclusion of nonlocals by the Bay
11 Boys takes many forms. The Bay Boys
12 will hurl pejoratives, heckle, and hassle
13 outsiders who try to surf at Lunada Bay.
14 The Bay Boys will violate the local
15 surf-riding ordinance, block outsiders
16 movements, and will also drop in on the
17 outsiders putting them at serious risk of
18 harm. The Bay Boys expect the
19 outsiders to “take it, deal with it, and
20 just don’t mouth out.”

10 trouble.” Instead, he explained “THERES
11 [sic] OTHER OPTIONS THAN
12 THREATS N [sic] VIOLENCE TO
13 MAKE THEIR TIME IN OUR HOME A
14 BUMMER.”].

15 37.Lee Depo. 137:8-137:3, 138:4-15;
16 83:16-18, 84:5-17, 85:2-3, 155:7-16 (Lee
17 admits to heckling nonlocals at Lunada
18 Bay between 10 and 30 times because he
19 “just felt like it.” He also recalls hearing
20 others yelling “boo” at outsiders), 225:4-
21 13 (Lee admits there is “maybe a little bit
22 [of Localism]” at Lunada Bay because
23 “people get heckled and [he] heckle[s]
24 people.”), 152:17-25, 153:11-13
25 (explaining that the Bay Boys have a
26 variety of means of making outsiders’
27 time in “their home” a “total bummer,”
28 like by dropping in on them or heckling
them), 75:3-7 (if someone is not following
proper surfing etiquette, Lee “might drop
in on them . . . yeah, I’m going to go.”);
Blakeman Depo. 167:17-21, 169:4-9

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	(stating it is okay to drop in on a surfer who doesn't wait his or her turn and that he has seen it happen); <i>see also</i> Pltfs.' RJN Supp. Opp to City MSJ., Ex. B [5/8/95 LA Times Article].
10 38. The Bay Boys seek to discover plans 11 of "outsiders to visit or surf at Lunada 12 Bay, such as by looking for references 13 to Lunada Bay in social media, and then 14 coordinate to be present in large 15 numbers to harass the visitors. They 16 coordinate by e-mail and text messages, 17 among other things.	18 38. Wolff Decl., Exs. 8 [Exhibits 225, 19 Bates Lee 00000595 & 226, Bates Lee 20 00000596] (On January 16, 2014, Bay 21 Boy Tom Sully emailed Defendant Sang 22 Lee and asked him to forward an email "to 23 the whole crew so everyone knows and 24 we can all be on the same page." The 25 email related to a Monday, January 20, 26 2014 Martin Luther King, Jr. Celebration 27 event that was planned to take place at 28 Lunada Bay, much to the Bay Boys' chagrin. Defendant Sang Lee dutifully passed along Tom Sully's email to "the whole crew." Bay Boy Charlie Mowat responded to Defendant Lee's email by stating "I will be on the patio allllllllllll day on Monday throwing out heckles and sporting a BBQ. I'm already warming up.

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Don't miss the fun." Recipients of this
6 email included Andy Patch, Charlie
7 Beukema (Defendant Angelo Ferrara's
8 stepson), David Melo, Mark Griep, and
9 Zen Del Rio, among many others. Charlie
10 Mowat again wrote to Defendant Lee,
11 Tom Sully, and several others, to say
12 "[h]ope you're off Monday for the fiasco.
13 I'm going to sponsor a BBQ and be on the
14 patio all day."); Johnston Depo. 74:6-
15 77:21, Ex. 342 (Cell Record Detail) (texts
16 referring to outsiders as "trolls" and
17 confirming that they didn't get to surf);
18 Johnston Depo. 156:18-22, Ex. 344
19 (Phone Bill Records); Johnston Depo.
20 157:1-12 Ex. 345 (Text Messages).

21 39. When Bay Boys find "outsiders" at
22 Lunada Bay, they coordinate to have
23 more Bay Boys come to Lunada Bay in
24 large numbers. They coordinate by
25 mobile phone calls and text messages,
26 among other things.

27 39. Wolff Decl., ¶ 39 & Exs. 43
28 [Transcript of C. Ferrara Audio
Recording] and 38 [PLTF002027 (Charlie
Ferrara, stating: "I was calling people to
get down here. Get the frick out. We
need people surfing.")]; Wolff Decl., Ex.
6 (Johnston Depo., Ex. 342) [Alan

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	Johnston Chat Messages at entries 1036-1038: "If u really wanna be a bay boy we might meet [sic] your help tomm," "Could be a great help if ur there !!! Supposed to be a police setup at our spot calling all gards [sic]."; Wolff Decl., ¶¶ 40 & Ex. 39 [Defendant Lee Cell Phone Records at 0273-0275, indicating Sang Lee called Defendant Blakeman 62 times on January 29, 2016, the day Plaintiff Spencer was attacked]; ¶ 42 & Ex. 41 [Alan Johnston Chat Messages at entries 1033 and 1036 (On February 12, 2016, Defendant Johnston sent a text message to a friend, stating: "If u really wanna be a bay boy we might meet [sic] your help tomm," to which his friend responded "Anywhere in Pv especially your home break is special to me")].
40. When Bay Boys find "outsiders" at Lunada Bay, they coordinate their harassment and intimidation of such visitors.	40. Reed Depo. 300:18-25 ("Well, during the incident that occurred on February 13th, it appeared as though he had orchestrated that event with Mr. Jalian

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Johnston. Q. What specifically did he do
6 that made you think that he had
7 orchestrated that? A. It appeared as
8 though they had planned the event out in
9 an attempt to try to ruin my camera and in
10 an attempt to try to intimidate me.”),
11 320:3-5 (“I feel like [Blakeman’s] role in
12 the attack was to record rather than to
13 speak and to intimidate through his
14 camera.”); Wright Decl. ISO Motion for
15 Class Certification ¶ 8 [Docket No. 159-9]
16 (When Wright tried to visit Lunada Bay
17 on January 6, 2012 with his father and a
18 friend, he borrowed a board from
19 Kennedy Surf Shop where he was warned
20 by another surfer “words to the effect of ‘I
21 grew up in Palos Verdes. Don’t go there.
22 The Bay Boys protect that place and you
23 can’t surf there.’“ When Wright’s group
24 arrived at Lunada Bay, they “walked to
25 the bluff and were approached by a person
26 whom I believe to be a Bay Boy, who
27 said, ‘It’s really dangerous here today, you

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 shouldn't surf here.' I responded by
6 saying, I surf Mav's and have surfed
7 waves twice this big. This is no problem.'
8 After this, the man became more
9 confrontational and said things in a raised
10 voice like: (a) 'It's still dangerous out
11 there, and you could get hurt;' (b) 'No one
12 out there will let you catch waves if you
13 paddle out;' and (c) 'If you go out, the
14 people out there will make sure you don't
15 have fun.'“ Wright's group decided to go
16 down to the water, and "men who I
17 believe are Bay Boys surrounded the
18 entrance to the trail. They were extremely
19 aggressive and angry, and even though I
20 had not spoken to them and neither had
21 Nurnur nor my dad, they said things about
22 me being from Maverick's. They filmed
23 and photographed us, and called us kooks.
24 I saw others pull out phones, and what I
25 believed to be a walkie talkie or other type
26 of communication device, and I observed
27 them calling and texting. At the bottom of
28

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 the bluff on the shoreline, different men
6 who I believe to be Bay Boys were visibly
7 angry and approached us. They repeated
8 the exchange we had with the men at the
9 top of the bluff, even though we had not
10 spoken with any of these men. As an
11 example, one of them said, 'Oh, you're
12 that guy from Maverick's, huh?' This
13 leads me to believe the men on the bluff
14 and the men on the shoreline were
15 coordinating their efforts. Then, the men
16 below yelled things including: (a) 'It's
17 dangerous out here and someone might
18 get hurt!'; (b) 'You should not be here!'
19 (c) 'You won't have any fun!'; (d) 'It's
20 too crowded for you to go out!'; and (e)
21 'Nobody is going to let you catch a wave!'
22 One of the men saw my dad's [Los
23 Angeles County Sheriff's] badge around
24 his neck and said, "Oh, you're the muscle,
25 huh? That's some fucking bullshit." Then,
26 another surfer who I believe to be a Bay
27 Boy approached me—he was less overtly

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 hostile in his tone and body language.
6 This person [said]: 'I will probably get
7 hassled and in trouble just for talking to
8 you. I'm just out of prison and don't like
9 the drama of the other guys. But those
10 guys may attack you. They will drop in on
11 you. They will harass you, and you won't
12 get any waves. It's the way it is.' " I
13 asked, "If we paddle out and sit on the
14 inside, won't that be okay? Isn't that good
15 enough?" He said, "No. Just being here is
16 too much. But if you insist on going out,
17 stay on the inside or there will be a
18 fight.").

19 41. The Bay Boys also conspire to
20 exclude outsiders while they are in the
21 water at Lunada Bay.

22 41. Blakeman Depo. 215:6-12 (surfers on
23 the shore whistle at surfers in the water);
24 Spencer Depo., 105:12-20, 106:6-12
25 (Spencer observed that men in the water,
26 including Defendant Blakeman, were
27 coordinating with each other and with
28 other men in the Rock Fort on the shore
and "could tell they knew each other.");
Wright Decl. ISO Motion for Class

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	Certification ¶ 18 [Docket No. 159-9] (“I’ve seen Brant Blakeman, whom I understand to be a Bay Boy, surfing Lunada Bay on many occasions. … In the water, he seems to direct other Bay Boys to sit close to visiting surfers. I’ve observed Bay Boys who seem to be assigned to visiting surfers—they’ll sit too close to the visitors, impede their movements, block their surfing, kick at them, splash water at them, and dangerously drop in on them. On one occasion, I saw people whom I believe to be Bay Boys in a boat with surfboards threatening visitors. In addition to Blakeman, I’ve seen Michael Papayans, Sang Lee, Alan Johnston, Charlie Ferrara, and David Mello engage in this activity.”).
42. The Bay Boys conspired on and before January 29, 2017 to coordinate an attack on Plaintiff Spencer. Defendant Blakeman and others participated.	42. Wolff Decl., Ex. 40 [Defendant Lee Cell Phone Records at 0267-0269 (On January 29, 2016, Defendant Sang Lee made a significant number of phone calls to Bay Boys, including Charlie Mowat

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

	and David Melo. Defendant Lee contacted Mr. Mowat no less than 15 times before 5:30 a.m. that morning. Defendant Lee and Mr. Mowat exchanged another 11 calls later that same day), 0273-0275 (Defendant Lee contacted or attempted to contact Defendant Brant Blakeman 62 times on January 29, 2017 during an approximately 30-minute timespan. These calls were between Defendant Lee's cell phone and Defendant Blakeman's cell phone and home phone.	
18	43. The Bay Boys conspired on and 19 before February 12, 2017 – the day 20 before Plaintiff Diana Milena Reed was 21 sexually harassed by Defendants 22 Blakeman, Johnston, and Charlie 23 Ferrara.	43. Wolff Decl., ¶ 42 & Ex. 41 [Alan Johnston Chat Messages at entries 1037 and 1038 (Defendant Johnston informed a friend on February 12, 2016 that he had heard about the City's undercover operation planned for the next day, stating: "Could be a great help if ur there !!! Supposed to be a police setup at our spot calling all gards [sic]."] Defendant Johnston's friend responded "Fuck ok

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 well I am gunna get up and try to crack it
6 at BA cuz we're short on crew as well but
7 tide could very well plug it and I'll shoot
8 over. Either way I'll hit u up in the
9 morning early to see what's the haps").

10 44. The Bay Boys have developed a
11 close friendship with City police
12 officers, who look the other way when
13 the Bay Boys break the law. Some Bay
14 Boys make contributions to the Police
15 Officers Association, in exchange for
16 "badge" challenge coins that can be
17 carried, and "badge" decals that can be
18 placed on cars.

19 44. Blakeman Depo. 243:3-244:17
20 (Blakeman knows Sergeant Barber, Mr.
21 Eberhard, Mr. Ackert, Mr. Hellinga,
22 Captain Velez, and Rick Delmont;
23 Blakeman has known Sergeant Barber for
24 approximately 8 years and Mr. Ackert
25 approximately 10 or 12 years); Barber
26 Depo. 19:10, 25:1-6, 40:2-5 (attended
27 high school in Rancho Palos Verdes with
Angelo Ferrara's wife, Leonora), 93:14-21
(knows Michael Thiel), 124:5-12 (knows
Tom Sullivan), 129:12-16 (knows Sang
Lee); 71:8-72:3 (considers Charlie Mowat
to be a friend; they've gotten to know
each other over the years because Mr.
Mowat "is a local guy" who went to Palos
Verdes High School; Sergeant Barber has
socialized at Mr. Mowat's house for

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 barbecues and other events).

6 45. The City helps facilitate the Bay
7 Boys' exclusion of outsiders from
8 Lunada Bay.

9 45. Defendant Blakeman's Response to
10 Plaintiff Spencer's First Set of Requests
11 for Admissions to Defendant Blakeman
12 ("Blakeman RFAs"), RFA Nos. 1, 2, 3, 6
13 (though not a City employee, Defendant
14 Blakeman used a City-issued cell phone
15 for personal purposes from at least
16 October 1, 2015 through April 30, 2016);
17 Blakeman Depo., 14:10-11 (Q: "How long
18 have you had your flip phone? A.
19 Approximately, five years."), 15:9-17 (his
20 phone is provided by the City but he's not
21 an employee); City's Responses to
22 Plaintiff Spencer's Second Set of
23 Requests for Admission ("City RFA"),
24 RFA Nos. 6 (no City emergency would
25 have warranted use of the cell phone), 7
26 (City paid the cell phone bill); Blakeman
27 Interrogatories, Interrogatory No. 14
28 (Blakeman only recently returned the cell
phone to the City - within 7 or 8 months
of July 27, 2017); Barber Depo. 197:16-

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 23 ("we don't want to traverse those trails
6 [from the bluffs down to the shoreline],
7 because we may fall and break our
8 necks"), 105:25-10 ("Q. About how many
9 times had you been down there [to the
10 Rock Fort]? A. Maybe a handful. Maybe
11 four or five times. Q. Four or five times
12 in 20 years or so? A. Yes.").

13 46. With help from the City, the Bay
14 Boys act with impunity.
15 46. Kepley Depo., 40:3-41:13 (PVE police
16 planned an undercover operation with the
17 Santa Monica Police Department where
18 Santa Monica officers agreed to pose as
19 surfers); 41:17-42:23 (the undercover
20 operation was canceled because the Bay
21 Boys learned about the operation the day
22 before it was supposed to occur and called
23 the City Manager to question why the
24 police would be undercover at Lunada
25 Bay); Franklin Decl., Ex. 21, Bates
26 CITY7087-CITY7096 (the undercover
27 operation scheduled for February 13, 2016
28 was compromised when, on February 12,
2016, Bay Boy Michael Thiel met with

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 the City Manager and complained that
6 Chief Kepley was “inappropriately
7 utilizing police resources at Lunada Bay”
8 and that he was aware the next day there
9 was to be a “sting operation,” stating
10 “something like, ‘I hope tomorrow isn’t
11 the sting . . . better not be doing this
12 tomorrow.’“ The City Manager called
13 Chief Kepley, informed him of his
14 meeting with Mr. Thiel, after which time
15 the undercover operation was canceled.
16 Chief Kepley noted that “PVEPD is a
17 small department with many long-tenured
18 officers who police this small
19 community.” Chief Kepley “mentioned
20 Sergeant Steve Barber and Officer Ken
21 Ackert as long-term employees who might
22 interface with some of the Bay Boys.” An
23 investigator hired by the City to determine
24 the source of the leak noted that the
25 PVEPD Property Clerk, Jaylin Albao, was
26 in a relationship with former PVEPD
27 officer Rick Delmont, who “had a close

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 relationship with the Bay Boys . . .
6 perhaps Jaylin overheard something that
7 either intentionally or accidentally
8 conveyed it to Rick Delmont, and then he
9 somehow maybe leaked out to a Bay
10 Boy."); Johnston Depo. 80:15-83:13
11 (admits he knew in advance of the
12 scheduled sting at Lunada Bay on
13 February 13, 2016); Reed Decl., ¶¶ 14-15
14 (the police witnessed Plaintiff Reed get
15 verbally attacked by David Melo but did
16 not intervene and instead refused to arrest
17 him; the officers talked Plaintiff Reed out
18 of surfing that morning and did nothing to
19 David Melo); Reed Depo. 227:13-18
20 (Reed tried multiple times to contact the
21 police and set up a time to identify the
22 individuals who attacked her on February
23 13, 2016, but she had to "keep calling the
24 police over and over . . . [and] it took a
25 really long time and I felt like, you know,
26 they weren't doing enough to help me
27 with this."); 238:9-18 ("I do remember
28

1	Issue #3: <u>The Individual Defendants Are Engaged in a Conspiracy to</u>	
2	<u>Exclude Outsiders from Lunada Bay.</u>	
3	Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
4		
5		speaking to someone from the police
6		department, you know, telling me that it's
7		not safe at Lunada Bay and why would I
8		want to go back, it's a rocky beach and
9		why would a woman want to go to a rocky
10		beach, and it just seemed like they weren't
11		doing much to help the situation. I was
12		also surprised that they were, you know –
13		they told me that – I mean, they implied
14		that women shouldn't go down to rocky
15		beaches; I found that comment a little bit
16		strange."); 239:15-19 ("I probably called
17		maybe three times, and, you know, I
18		remember then eventually I proceeded to
19		retain my attorneys because I felt like that
20		was the only course of action I could take
21		because the police weren't helping me");
22		Taloa Depo. 306:18-307:2 (Defendant
23		Papayans told Taloa the locals own the
24		police).
25	47. The Bay Boys continued to conspire	47. Wolff Decl., ¶ 42 & Ex. 41 [Johnston
26	after this lawsuit was filed.	Text Messages at entries 759-761 (upon
27		being informed that a lawsuit had been
28		

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 filed against him, Defendant Johnston
6 texted several Bay Boys, including
7 Michael Thiel, and stated: “Yeah saw that
8 super gay!! Who narked my name!! So
9 lame!!,” to which his Bay Boy friend,
10 Tom Sullivan, responded “I bet it was
11 police chief he has photos of all of us she
12 probably just picked from a line up don’t
13 trip to [sic] hard she has nothin it’s not
14 illegal to be annoying . . just be prepared
15 for shit show . . .”), Chat Message at entry
16 1836 (Defendant Johnston texted a friend
17 approximately a week after this lawsuit
18 was filed, on April 6, 2016, with the
19 following admission: “Haha stir the pot
20 with heckling!! Bra us locs are getting
21 sued over here for being locs”]).

22 48. The Bay Boys conspired to withhold
23 evidence in this case.

24 48. Blakeman Depo. 14:23-25 (Defendant
25 Blakeman claimed he could not remember
26 his cell phone number at his deposition
27 and provided Plaintiffs’ counsel with an
incorrect phone number, identifying the
last four digits of his cell phone number as

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 "7634"); Wolff Decl., ¶ 43 & Ex. 42
6 (Defendant Blakeman's Response to
7 Plaintiff Diana Reed's First Set of
8 Interrogatories, Interrogatory No. 1,
9 identifying the last four digits of his cell
10 phone number as "7934"); Wolff Decl., ¶¶
11 50 (In response to a request for production
12 of documents seeking text messages with
13 co-Defendants, Defendants Charlie and
14 Frank Ferrara claimed not to possess any
15 such evidence, whereas Defendant Sang
16 Lee produced a privilege log showing a
17 number of texts between himself and
18 Defendants Charlie and Frank Ferrara
19 during the relevant time period); Decl.
20 Pooley, ¶¶ 21-22 (Defendant Johnston
21 refused to make himself available for
22 deposition until four days after filing a
23 summary-judgment motion), 23-25
24 (counsel for Defendant Blakeman failed to
25 provide Plaintiffs with evidence submitted
26 to the Court in support of his motion for
27 summary judgment).

1	Issue #3: <u>The Individual Defendants Are Engaged in a Conspiracy to</u>	
2	<u>Exclude Outsiders from Lunada Bay.</u>	
3	Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
4		
5	49. Each of the Individual Defendants is a member of the Bay Boys.	49. See PAMF 12, 13, 15, 16, 22, 24-48.
6		
7	50. Defendant Sang Lee is aware of and agrees with the Bay Boys' purpose or design to exclude the general public, particularly "outsiders" (or "kooks"), from visiting or surfing at Lunada Bay.	50. See PAMF 12, 13, 15, 16, 22, 24-48.
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10		
11		
12	51. Defendant Sang Lee undertook actions to further the Bay Boys' purpose and design, including following the Bay Boys' rules, terms, or practices, harassing and intimidating "outsiders," and/or encouraging, facilitating, or coordinating with other Bay Boys regarding such actions.	51. See PAMF 12, 13, 15, 16, 22, 24-48.
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14		
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20	52. Defendant Brant Blakeman is aware of and agrees with the Bay Boys' purpose or design to exclude the general public, particularly "outsiders" (or "kooks"), from visiting or surfing at Lunada Bay.	52. See PAMF 12, 13, 15, 16, 22, 24-48.
21		
22		
23		
24		
25		
26	53. Defendant Brant Blakeman undertook actions to further the Bay	53. See PAMF 12, 13, 15, 16, 22, 24-48.
27		
28		

1	Issue #3: The Individual Defendants Are Engaged in a Conspiracy to	
2	<u>Exclude Outsiders from Lunada Bay.</u>	
3	Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
4		
5	Boys' purpose and design, including 6 following the Bay Boys' rules, terms, or 7 practices, harassing and intimidating 8 "outsiders," and/or encouraging, 9 facilitating, or coordinating with other 10 Bay Boys regarding such actions.	
11	54. Defendant Alan Johnston is aware of 12 and agrees with the Bay Boys' purpose 13 or design to exclude the general public, 14 particularly "outsiders" (or "kooks"), 15 from visiting or surfing at Lunada Bay.	54. See PAMF 12, 13, 15, 16, 22, 24-48.
16	55. Defendant Alan Johnston undertook 17 actions to further the Bay Boys' 18 purpose and design, including 19 following the Bay Boys' rules, terms, or 20 practices, harassing and intimidating 21 "outsiders," and/or encouraging, 22 facilitating, or coordinating with other 23 Bay Boys regarding such actions.	55. See PAMF 12, 13, 15, 16, 22, 24-48.
24	56. Defendant Michael Papayans is 25 aware of and agrees with the Bay Boys' 26 purpose or design to exclude the 27 general public, particularly "outsiders"	56. See PAMF 12, 13, 15, 16, 22, 24-48.
28		

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 (or "kooks"), from visiting or surfing at
6 Lunada Bay.

7 57. Defendant Michael Papayans
8 undertook actions to further the Bay
9 Boys' purpose and design, including
10 following the Bay Boys' rules, terms, or
11 practices, harassing and intimidating
12 "outsiders," and/or encouraging,
13 facilitating, or coordinating with other
14 Bay Boys regarding such actions.

15 58. Defendant Angelo Ferrara is aware
16 of and agrees with the Bay Boys'
17 purpose or design to exclude the
18 general public, particularly "outsiders"
19 (or "kooks"), from visiting or surfing at
20 Lunada Bay.

21 59. Defendant Angelo Ferrara undertook
22 actions to further the Bay Boys'
23 purpose and design, including
24 following the Bay Boys' rules, terms, or
25 practices, harassing and intimidating
26 "outsiders," and/or encouraging,
27 facilitating, or coordinating with other

57. See PAMF 12, 13, 15, 16, 22, 24-48.

58. See PAMF 12, 13, 15, 16, 22, 24-48.

59. See PAMF 12, 13, 15, 16, 22, 24-48.

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 Bay Boys regarding such actions.

6 60. Defendant Frank Ferrara is aware of
7 and agrees with the Bay Boys' purpose
8 or design to exclude the general public,
9 particularly "outsiders" (or "kooks"),
10 from visiting or surfing at Lunada Bay.

60. See PAMF 12, 13, 15, 16, 22, 24-48.

11 61. Defendant Frank Ferrara undertook
12 actions to further the Bay Boys'
13 purpose and design, including
14 following the Bay Boys' rules, terms, or
15 practices, harassing and intimidating
16 "outsiders," and/or encouraging,
17 facilitating, or coordinating with other
18 Bay Boys regarding such actions.

61. See PAMF 12, 13, 15, 16, 22, 24-48.

19 62. Defendant Charlie Ferrara is aware
20 of and agrees with the Bay Boys'
21 purpose or design to exclude the
22 general public, particularly "outsiders"
23 (or "kooks"), from visiting or surfing at
24 Lunada Bay.

62. See PAMF 12, 13, 15, 16, 22, 24-48.

25 63. Defendant Charlie Ferrara undertook
26 actions to further the Bay Boys'
27 purpose and design, including

63. See PAMF 12, 13, 15, 16, 22, 24-48.

1 **Issue #3: The Individual Defendants Are Engaged in a Conspiracy to**
2 **Exclude Outsiders from Lunada Bay.**

3 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
4 **Additional Material Facts:**

5 following the Bay Boys' rules, terms, or
6 practices, harassing and intimidating
7 "outsiders," and/or encouraging,
8 facilitating, or coordinating with other
9 Bay Boys regarding such actions.

10 **Issue #4: Public Nuisance**

11 **Issue #4: Public Nuisance**

12 **Plaintiffs' Additional Material Facts:**

13 **Evidence in Support of Plaintiffs'**
14 **Additional Material Facts:**

15
16
17 64. Palos Verdes Estates Shoreline
18 Preserve and specifically Lunada Bay
19 constitute an asset of priceless value,
20 and exceptional and dramatic beauty.
21 Lunada Bay is owned by the City and is
22 a world class wave.

23
24
25
26
27 64. City Responses to Plaintiffs' Separate
28 Statement Undisputed Material Facts ISO
Class Certification [Docket No. 189]
Nos. 1 ("Lunada Bay is owned by the City
of Palos Verdes Estates and is a public
beach") ("Lunada Bay is a unique world
class surfing site, and offers many
recreational opportunities"), 5; Willis
Decl. ISO Opp. to City MSJ, ¶¶8, 9, 10,
11. 15 ("Lunada Bay is a world class
wave . . .") and Ex. 4 ("Palos Verdes

<u>Issue #4: Public Nuisance</u>	
<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
	<p>Estates Shoreline Preserve constitutes an asset of priceless value.” p. 87) (Palos Verdes “has a shoreline of exceptional and dramatic scenic beauty . . .”) (p. 115); Barber Depo. 112:18-22, Ex. 263 (“Q: And I’m going to – 263 I’m going to put in front of you, Sergeant Barber. Do you recognize that as being a map of the general Lunada Bay coastal area? A: Yes.”)</p>
65. The State of California granted Lunada Bay and the rest of the Palos Verdes Estates Shoreline Preserve to the City, but it is reserved for the People of California.	65. Willis Decl. Supp. Pltfs.’ Opp to City Defs.’ MSJ. (“Willis Decl.”), ¶¶ 8-11.
66. The Bay Boys have long acted to obstruct the public’s free access to Lunada Bay with the City’s knowledge.	66. Franklin Decl., Ex. 21 at bates CITY7090 (“Chief Kepley told me that shortly after he was hired as chief of police he learned of a long history of alleged ‘bullying and hazing’ of out-of-town surfers at Lunada Bay by local surfers, often referred to as the ‘Bay Boys.’”), CITY7091 (Chief Kepley asked

1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	Captain Velez to organize a sting
6	operation at Lunada Bay in November or
7	December 2015, but “[h]e wasn’t quick to
8	respond to that and over the next month or
9	two I, I would you know, ask him again,
10	and I think he was having difficulty
11	organizing that.”); 171; Best Depo.30:16-
12	25, 31:1-17; 150:1-25, 151:1-25; 152:1-6.;
13	124:22-25, 125:1-25, 126:1-25, 127:1-13;
14	Kepley Depo. 51:19-24 (“When this
15	Guardian video came out, it caused a
16	quick steep learning curve for me to learn
17	some of the history. And I had heard
18	people from the community and staff
19	members, and all, tell me that there have
20	been conflicts and issues in the surfing
21	culture for many, many years, as many as
22	50 years or more.”); Kepley Depo. 220:2-
23	7 (“Q: Sure. Do you think localism has
24	been a problem at Lunada Bay this year?
25	A: Yes. Q: Do you think localism was a
26	problem at Lunada Bay last year? A:
27	Yes); Placek Depo. 74:5-13; Siounit Decl.
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
3		
4		¶ 4 [Docket No. 308]; Franklin Decl., Ex. 5 21 at Bates CITY7090 [Docket No. 324] 6 (“Chief Kepley told me that shortly after 7 he was hired as chief of police he learned 8 of a long history of alleged ‘bullying and 9 hazing’ of out-of-town surfers at Lunada 10 Bay by local surfers, often referred to as 11 the ‘Bay Boys.’“); Spencer Depo., 55:11- 12 56:17, 67:8-10, 79:19-20 (for more than 13 30 years, Plaintiff Spencer, who lives in 14 the City of Norco, wanted to surf at 15 Lunada Bay but avoided it due to fear of 16 Lunada Bay and its reputation of violence 17 toward outsiders); 18
19	67. The Bay Boys exclude outsiders the 20 moment they step onto the bluffs, 21 making it known outsiders are not 22 welcome through their words and acts. 23 24 25 26 27	67. Blakeman Depo. 25:25-26:2; Spencer 28 Depo. 98:8-15 (almost instantaneously after arriving, Bay Boys called Spencer a “kook” and told him he couldn’t surf there), 102:12-25 (Spencer was told ““Why don’t you fucking go home, you fucking kook”“ and ““How many other good places did you pass to come here?”“), 103:21-104:5 (“Q. Did anything

1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	else occur in the 20 minutes [after your
6	arrival] that caused fear for you? A. Yes . .
7	. It was more of a – more of a closer, I
8	guess, encounter with the same language
9	all the way down the trail; jumping into
10	the water; [the] same individual just keep,
11	you know, heckling."), 143:1-4, 9-22
12	(while standing on the bluff, Bay Boys
13	drove by real slowly, called him names
14	like "kook," and Defendant Blakeman
15	circled him while "sticking his GoPro in
16	our faces for reasons we could only
17	determine were to identify us to their
18	group so that they would know who we
19	are."), 144:21-25 (Spencer explained
20	Blakeman's behavior and its impact:
21	"When you show up to a beach and
22	someone that you know is one of the little
23	– the local controllers/harassers of that
24	place sticking a camera in your face, why
25	is he doing that? To intimidate you and to
26	make you feel uncomfortable."); Spencer
27	Decl. Supp. Pls.' Mot. Class Cert.
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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10	(“Spencer Decl.”) ¶ 11; Wolff Decl., ¶ 47 & Ex. 44 [Los Angeles Times photograph of Defendant Blakeman on the bluff video recording outsiders Ken Claypool and Chris Taloa].	
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26	68.Using the Rock Fort as a base, the Bay Boys restrict outsiders' access to the shoreline and the water.	68.Franklin Decl., Ex. 21 at Bates CITY7090 (“Kepley said there is a masonry stone patio located on the public coastline; however this structure is widely viewed as being owned or controlled by the Bay Boys.”); Spencer Depo., 198:25-199:8 (The Rock Fort “provides an operations point for [the Bay Boys] to congregate and to prevent people from using the beach; [] its very existence prevents access.”); Lee Depo., 53:17-20 (Defendant Lee helped improve the Rock Fort by adding “a little roofing on the garage door. I put a cover on like a – like a roofing material so that it’s waterproof.”).
27	69.The Bay Boys admit they obstruct nonlocals' free use of Lunada Bay.	69.Lee Depo., 143:9-12 (Sang Lee deters outsiders by “discourag[ing] them” from
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
3		
4		surfing), 125:21-126:3, 68:16-18
5		(“personally, I probably would not like to
6		see other people”), 69:4-5 (“I probably
7		wouldn’t be happy about it”), 69:13 (“it
8		just ruins everything”), 185:12-15 (Sang
9		Lee explained that the reason there’s “a
10		lot of space” at Lunada Bay “is because
11		we keep it like that. We fucking hassle
12		people”), 186:11-22 (Sang Lee thinks he
13		may have told reporters at Lunada Bay
14		that they “shouldn’t fucking come down
15		here. Stay away from this area.”), 192:3-5
16		(“I just wanted to discourage people,
17		outsiders coming in with no etiquette that
18		take, that type”), 199:22-200:23 (“Q.
19		Okay. The reason was to discourage
20		people from coming to Lunada Bay and
21		surfing; is that correct?” “A. Yeah
22		yeah.”); Wolff Decl., ¶ 39 & Exs. 43
23		[Transcript of C. Ferrara Audio
24		Recording] and 38 [PLTF002027: “some
25		newcomers come and screw up what we
26		have going on here and, ach!”]; Blakeman
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1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	Depo. 220:13-25 (Defendant Blakeman believes it is acceptable to block someone from catching a wave at Lunada Bay),
6	222:19-223:2 (Defendant Blakeman admits that on January 29, 2017, he got within two or three feet of Mr. Taloa and intentionally blocked him from catching waves at Lunada Bay), 223:8-11
7	(Blakeman admits to “shadowing” or following Mr. Taloa while in the water on January 29, 2017. Blakeman admits that Mr. Taloa was “trying to get away”
8	Blakeman but Blakeman continued to follow him); Franklin Declaration, Ex. 37
9	[The Guardian Video]; Wolff Decl., ¶ 39
10	& Exs. 43 [Transcript of C. Ferrara Audio Recording] and 38 [PLTF002027 (Charlie Ferrara, stating: “I can’t tell you you can’t be down here. I can’t tell you that, you know. I can’t tell you you can’t go surfing, but what I can do is make sure you don’t have fun out there. You know what I mean? And then what’s the point
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1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs'</u>
4	<u>Additional Material Facts:</u>
5	of that? You're going to come here when
6	the surf's good everywhere else and get
7	burned and have a bad day? That's, cuz
8	that's, you know, that's what we're gonna
9	keep on doing. They want to come out
10	we're just gonna keep on burning them
11	and make them have a bad session
12	because we're going to stick together and
13	like attack cuz we are. We are family";
14	"They've been recorded and stuff while
15	they're, you know, rousted [outsiders]
16	and get recorded and they get in trouble ..
17	. that's why now we're not, you know,
18	doing stuff, and now we're just burning
19	people."]; Wolff Decl., Ex. 8 [Exhibit 223
20	to Lee Deposition, Bates Lee 000000015
21	(Defendant Sang Lee reminded other Bay
22	Boys in an email of their preferred
23	strategy to exclude outsiders: "[I] do NOT
24	want to see my friends get in trouble with
25	the law / there's [sic] other options to
26	deterr [sic] outsiders from surfing our
27	home such as we can ride together or its
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4		<p>[sic] a long walk up the trail in bare feet.”</p> <p>Defendant Lee further explained that he did not want to see other Bay Boys “so fired up on trolls” that they “immediately get[] into fights or threaten[] the outsiders n [sic] get into trouble.” Instead, he explained “THERES [sic] OTHER OPTIONS THAN THREATS N [sic] VIOLENCE TO MAKE THEIR TIME IN OUR HOME A BUMMER.”).</p>
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15	70. Defendants prevented Plaintiff Spencer from enjoying the free use of Lunada Bay on January 29, 2016.	70. Spencer Decl. ¶ 12; Spencer Depo., 105:7-20 (Blakeman paddled around Spencer), 229:11-230:14 (“you’re alleging that Mr. Blakeman was circling you? A. I’m not alleging. He did circle me – yes, I am alleging in the complaint, yes. So, he did circle us. He did circle me. Q. What’s ‘circle’? What do you mean when he circles you? Is he going a complete 360-degree circle around you? A. Complete 360 in front; blocking; obstructing. Q. What’s he obstructing you from? A.
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
3		
4		Catching the waves. Q. Well, why do 5 you believe he's obstructing you from 6 catching a wave? . . . So, when 7 someone is that close to you in front of 8 you when you're trying to paddle 9 forward, you don't want to paddle and 10 hit them; so when they're in front of 11 you, they're trying to prevent you from 12 catching waves. BY MR. WORGUL: 13 Q. Could they be trying to catch a wave 14 as well? . . . THE WITNESS: On that 15 day, in my opinion, Mr. Blakeman was 16 obstructing us from catching waves."), 17 259:24-260:24 (Blakeman circled 18 Plaintiff Spencer in the water, stared 19 him down, prevented him from surfing, 20 and thrust his "camera in [the] face" of 21 those who attempt to access the beach, 22 among other things); 23
24	71. Defendants prevented Plaintiff 25 Spencer from enjoying the free use of 26 the public bluffs atop Lunada Bay on 27 February 5, 2016.	71. Spencer Decl. ¶ 23; Spencer Depo., 143:17-21 ("Defendant Blakeman [was] constantly circling us, everybody who was out there to surf that was not from

1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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5		there; that's not a Bay Boy; sticking his
6		GoPro in our faces for reasons we could
7		only determine were to identify us to
8		their group so that they would know
9		who we are."), 144:17-19 ("Q. Did you
10		feel threatened by [Blakeman's]
11		behavior? A. Of course."), 142:20-
12		143:7 ("Were you harassed while you
13		were watching the property? A. You
14		could – yes. When people call you the
15		same things they called on the first
16		visit, 'kook,' and, you know, 'What are
17		you doing?' Same stuff, that's
18		harassment. I feel I was harassed."),
19		145:5-146:9 (while Spencer stood on
20		the bluff, Bay Boys drove by slowly
21		and called Spencer names); Wolff
22		Decl., ¶ 47 & Ex. 44 (A photographer
23		from the LA Times was present and
24		took a photo of Defendant Blakeman
25		following Plaintiff Spencer's friends,
26		Jordan Wright and Christopher Taloa,
27		with his camera along the bluffs)].
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
3	72. Defendants prevented Plaintiff Reed from enjoying free use of the bluffs and public area surrounding Lunada Bay on January 29, 2016.	72. Reed Depo. 119:25-120:16 ("Q. So at some point did you experience any harassment or intimidation when you were there on January 29th? A. Yes. Q. What was that? A. From what I recall when, you know, from the moment that we arrived we were experiencing harassment. Q. Okay, can you describe what the harassment was? A. I remember that people were circling around the car when we parked and, you know, some people yelled at us and said that we we're kooks. And there were other people, other bay boys on the bluff that were looking at us and there were people recording us. So the situation there seemed very tense.", 121:10-11 ("I remember at some point people telling us that we can't surf there"), 130:11-14 ("I believe there was an instance of people telling us that we can't surf there while we were on the bluff. There was the constant

1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	harassment of video cameras
6	everywhere, recording everything.”);
7	Reed Decl., ¶ 8 (Plaintiff Reed was
8	harassed by Bay Boys almost
9	immediately after parking her car along
10	the bluffs; she was called a “kook” and
11	told she couldn’t surf there), 9 (a group
12	of Bay Books were standing on the
13	bluffs and told Plaintiff Reed should
14	couldn’t surf there; Defendant
15	Blakeman was recording Plaintiff Reed
16	while she was on the bluffs), 10
17	(Plaintiff Reed met Plaintiff Spencer
18	and recalls learning that he is a police
19	officer and was run over in the water by
20	another surfer that morning), 11 (after
21	making her way down to the beach,
22	Plaintiff Reed was verbally accosted by
23	David Melo, who called her a “whore”
24	and continued to yell and scream
25	profanities at Plaintiff Reed; another
26	Bay Boy told Reed to “watch out” and
27	“be careful” and “don’t smash your
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
3		
4		pretty little face on the rocks.”), 15 5 (after being attacked by David Melo, 6 Plaintiff reed was scared and changed 7 out of her wetsuit into her clothes and 8 left Lunada Bay without surfing 9 because she was “completely shaken 10 up” and “felt unsafe to go into the 11 water” so she “decided to go home.”
12	73.Defendants prevented Plaintiff Reed 13 from enjoying free use of Lunada Bay 14 on February 13, 2016	73.Reed Depo. 167:17-168:2 (“I 15 remember when we were preparing to 16 walk down the trail, there was a man, 17 middle-aged blond haired man, and a 18 teenage boy that were filming us and 19 they were attempting to block the 20 pathway, and they were telling us that 21 we were done, whatever that means. I 22 do remember some people yelling at us 23 when we were on the bluff . . . I 24 remember once we were at the bottom 25 of the hill on the beach, I remember, 26 you know, people yelling at us, yeah, 27 everyone seemed pretty hostile.”), 170:12-171:5 (“I remember that
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1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	[Defendants Blakeman and Johnston]
6	approached me very rapidly and I was
7	caught by surprise. I remember that
8	they rushed towards me in a hostile
9	manner. I remember, you know,
10	declining that I wanted to drink beer. I
11	remember being videotaped by Brant
12	Blakeman. I remember there were
13	times when I was being videotaped very
14	close to my face and it felt very
15	intimidating and definitely felt like I
16	was being harassed. And I think that I
17	asked them, you know, why they're
18	videotaping me because it made me
19	very uncomfortable. I remember Mr.
20	Johnston opening the can of beer in a
21	way that sprayed my arm and my
22	camera. I remember him chucking beer
23	and throwing beer cans on the floor. I
24	remember him being very loud and very
25	scary, very intimidating, and acting in a
26	sexual manner. Q. Where did this take
27	place? A. These events took place in
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1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
4	
5	the [rock] fort.”), 175:8-15 (because of
6	where Blakeman and Johnston were
7	standing, Plaintiff Reed could not leave
8	the rock fort), 177:7-8 (“I was not able
9	to exit the fort, I was frozen in fear”),
10	216:10-12 (“I remember at some point
11	after that Jalian paddled out and left and
12	I felt like it was safe to go back up the
13	hill”), 177:19-178:2 (“I do remember
14	asking, you know, why I was being
15	filmed and, you know, being told that
16	they’re filming me because I’m sexy. I
17	remember Mr. Johnston saying that he’s
18	big enough to get the job done while,
19	you know, also, you know, he was also
20	grunting and making – making moans
21	and noises resembling, you know, an
22	orgasm. He was, you know, thrusting
23	and rubbing his torso in a sexual
24	manner, just acting in a very – very
25	frightening way.”), 219:15-18
26	(Blakeman was trying to intimidate
27	Plaintiff Reed by holding his camera
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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5		“right up to [her] face, you know, two
6		feet from [her] face”), 358:23-359:1 (“I
7		do remember . . . while he had a towel
8		on himself there was a moment when it
9		seemed that he intentionally exposed
10		his penis to me while he was
11		changing”); Reed Decl. ¶¶ 16-18
12		(unable to surf because her arm was in a
13		cast so she decided to go to Lunada Bay
14		to take photographs of a friend while he
15		surfed), 20 (while she was in the fort, a
16		man entered and interrogated Plaintiff
17		Reed, asking what her “mission
18		objective” was and why she was there).
19	74. Defendants have continued to	74. Reed Depo. 251:2-252:7 (Reed has
20	obstruct Plaintiff Reed’s free passage at	been harassed from the trail to the
21	Lunada Bay since February 13, 2016.	shore, told “no one wants you here” and
22		that she “should leave”, she is told she
23		shouldn’t be there, and has
24		“experienced harassment in the way
25		that I was told I’m not welcomed [at
26		Lunada Bay].”)
27	75. Over the years, the Bay Boys have	75. Wolff Decl., ¶ 39 & Exs. 43
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1	<u>Issue #4: Public Nuisance</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4	revised and perfected their strategy of exclusion, aiming to make outsiders' experiences at Lunada Bay so miserable that they won't come back.	[Transcript of C. Ferrara Audio Recording] and 38 [PLTF002027 (Charlie Ferrara, stating: "I can't tell you you can't be down here. I can't tell you that, you know. I can't tell you you can't go surfing, but what I can do is make sure you don't have fun out there. You know what I mean? And then what's the point of that? You're going to come here when the surf's good everywhere else and get burned and have a bad day? That's, cuz that's, you know, that's what we're gonna keep on doing. They want to come out we're just gonna keep on burning them and make them have a bad session because we're going to stick together and like attack cuz we are. We are family"; "They've been recorded and stuff while they're, you know, rousting [outsiders] and get recorded and they get in trouble . . . that's why now we're not, you know, doing stuff, and now we're just burning people."]; Wolff Decl., Ex. 8 [Exhibit 223]
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1	<u>Issue #4: Public Nuisance</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs'</u>
4	<u>Additional Material Facts:</u>
5	to Lee Deposition, Bates Lee 000000015
6	(Defendant Sang Lee reminded other Bay
7	Boys in an email of their preferred
8	strategy to exclude outsiders: “[I] do NOT
9	want to see my friends get in trouble with
10	the law / theres [sic] other options to
11	deterr [sic] outsiders from surfing our
12	home such as we can ride together or its
13	[sic] a long walk up the trail in bare feet.”
14	Defendant Lee further explained that he
15	did not want to see other Bay Boys “so
16	fired up on trolls” that they “immediately
17	get[] into fights or threaten[] the outsiders
18	n [sic] get into trouble.” Instead, he
19	explained “THERES [sic] OTHER
20	OPTIONS THAN THREATS N [sic]
21	VIOLENCE TO MAKE THEIR TIME IN
22	OUR HOME A BUMMER.”).

1 **Issue #5: Bane Act**
2

3 **Issue #5: Bane Act**

Plaintiffs' Additional Material Facts:	Evidence in Support of Plaintiffs' Additional Material Facts:
76. The Lunada Bay shoreline and bluffs is City-owned land which may be accessed by the Public.	76. Willis Decl. Supp. Pltfs.' Opp to City Defs.' MSJ. ("Willis Decl."), ¶¶ 8-11.
77. The Bay Boys united – through common goals, symbols, and practices – to deprive Plaintiffs of their right to access the bluffs and shoreline through interference, intimidation, threats and coercion.	77. Lee Depo., 31:19-32:6 (Defendant Sang Lee has a "Lunada Bay" tattoo with a Trident head); 46:2-11, 47:10-14 (When it was in existence, Bay Boys would spend time together barbequing, drinking beer, and hanging out at the Rock Fort), 118:10-20, 119:14-15, 120:24-121:1, 123:7-8, 22-23 (although there is no "written rule book" there is "an understanding" among local surfers at Lunada Bay as to the ground rules for surfing there), 276:9-23 (Sang Lee admits to pouring beer on John MacHarg's head one day at the Rock Fort), 285:18-26 (Bay Boys think of themselves as "pirates"); Wolff Decl., Ex. 8 [Exhibit 222 to Lee Deposition, Bates Lee 00000001]; Johnston Depo.

1	<u>Issue #5: Bane Act</u>
2	<u>Plaintiffs' Additional Material Facts:</u>
3	<u>Evidence in Support of Plaintiffs'</u>
4	<u>Additional Material Facts:</u>
5	63:20-64:2, 166:21-167:7 (Lunada Bay 6 tattoo); Spencer Decl. ¶ 12; Spencer 7 Depo., 113:21 (“they all know each 8 other”), 198:25-199:8 (The Rock Fort 9 “provides an operations point for [the 10 Bay Boys] to congregate and to prevent 11 people from using the beach; [] its very 12 existence prevents access.”); Spencer 13 Depo., 259:24-260:24 (Blakeman 14 circled Plaintiff Spencer in the water, 15 stared him down, prevented him from 16 surfing, and thrust his “camera in [the] 17 face” of those who attempt to access the 18 beach, among other things), 142:20-21, 19 146:23-147:14, 149:12-23; Blakeman 20 Depo. 223:8-11 (shadowed Mr. Taloa’s 21 movements and intentionally prevented 22 him from catching waves); Spencer 23 Decl. ¶ 22; Claypool Decl. ¶ 25 (when 24 he finished surfing at Lunada Bay in 25 January 2015, he saw Bay Boys 26 gathering at the top of the bluff near the 27 two trailheads and they were impeding 28

<u>Issue #5: Bane Act</u>	
<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
	movement); Taloa Depo., 354:17-355:3 (Defendant Papayans harassed Taloa at the bluff when he came to Lunada Bay to surf).
78.The PVE PD officers rarely police along the shoreline at Lunada Bay or in the Rock Fort.	78.Barber Depo. 105:25-106:10 (“Q. About how many times had you been down there [to the Rock Fort]? A. Maybe a handful. Maybe four or five times. Q. Four or five times in 20 years or so? A. Yes.”); Johnston Depo. 111:25-113:3 (police tell the Bay Boys not to open their beer when the police are down at the Rock Fort).

1 **Issue #6: Assault**

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3 **Issue #6: Assault**

4 Plaintiffs' Additional Material Facts:	5 Evidence in Support of Plaintiffs'
6	7 Additional Material Facts:
79. Plaintiff Reed was directly assaulted (sexually and otherwise) by Defendants Blakeman and Johnston.	79. Reed Depo. 219:9-21, 295:1-296:11, 299:2-300:5, 304:13-317:19, 318:7- 322:21, 329:7-10, 359:22-25; Reed Depo. 276:20-24 (“I felt – felt like I could have even been raped. I mean, it was incredibly frightening. I felt helpless. Just that whole memory of the event has caused me to be fearful and just really affected my piece of mind.”), 329:7-10 (“through [Blakeman’s] behavior of being incredibly hostile and intimidating and frightening, he’s evoked a lot of fear in me, you know.”); 359:22-25 (“I remember there was a moment when he seemed like he purposefully removed his towel in order to expose himself”); Reed Decl. ISO Motion for Class Certification, ¶ 19; 21-23; 27-28 (among other things, Defendants Blakeman and Johnston “rushed” Plaintiff Reed, approached her

1	<u>Issue #6: Assault</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4		in a menacing manner, harassed her 5 with sexually aggressive comments, 6 and intentionally sprayed beer on her 7 and her camera.); Franklin Decl., ¶ 25, 8 Ex. 17 [Docket No. 324] (“fucking sexy 9 baby...want to film it?”; “I seen you 10 and I think I touched myself a little bit”; 11 “I can do whatever I want.”).
12	80. Several Bay Boys, including 13 Defendant Charlie Ferrara, were present 14 when Plaintiff Reed was being 15 assaulted, intentionally contributing to 16 the intimidating presence and Plaintiff 17 Reed’s apprehension and fear, and 18 behaving in a manner showing that they 19 were complicit in, and supported, the 20 assault and threatening behavior.	80. Reed Depo., 317:25-318:6; Reed Decl. ISO Motion for Class Certification, ¶¶ 21-25; Blakeman Depo. 78:2-9, 101:11-16, 238:23-239:9; Frank Ferrara Depo. 217:2-9 (Q. Did you ever talk to your son Charlie about what happened at the fort that day? A. At the patio, yes. Q. And what did he say? A. He said he was, um – he said he was a little discouraged by how they talked to Diana. And he didn’t agree with it. And he went surfing.”; C. Ferrara Depo. 118:15-11; Wolff Decl., ¶ 39 & Exs. 43 [Transcript of C. Ferrara Audio Recording] and 38 [PLTF002027]
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1	<u>Issue #6: Assault</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4		(Charlie Ferrara explaining to Plaintiff Reed that she was “roust[ed]” by the Bay Boys “because you’re a newcomer. You don’t, you didn’t know how to approach it.”; Charlie Ferrara also explained that “it’s also scary being a guy when you have guys barking at you, too, you know. It’s scary when you’re a guy and you have fuckin’ ten guys you know like, you know, getting’ gnarly on you.”]).
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16	81. Defendant Blakeman withheld evidence of the attack from the police.	81. Barber Depo. 150:11-21 (“they had found out that Mr. Blakeman had possibly videotaped the incident, so because I have a better rapport with Brant Blakeman, [Luke Hellinga] asked me to go and ask him if he has a copy of it. Q. And do you know what happened? A. Brant said, ‘I don’t have anything. I’m sorry.’ Q. So he told you, ‘I don’t have any video of that?’ A. He wouldn’t – well, I mean, I wouldn’t say he wouldn’t cooperate,
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1	<u>Issue #6: Assault</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4		but he just said, 'No, I have nothing. I 5 really don't want to comment on it.'"); 6 Blakeman Depo. 241:25-242:24; <i>see</i> 7 <i>also</i> Franklin Decl., Ex. 17 [video of 8 2/13/16 incident, Bates No. 9 DEFT.BB081 and DEFT.BB082] 10 [Docket No. 324].
11	82. Plaintiff Spencer was also directly 12 assaulted by Defendant Blakeman, 13 along with other Bay Boys.	82. Spencer Depo. at 98:5-117:5; 142:24-144:19; 172:13-175:12; 223:8- 11 (Plaintiff Spencer recounting being assaulted and battered by Bay Boys, 15 including Defendant Blakeman); 110:20-24 ("Q. Were you fearful of 16 being further injured after that point? A That's an understatement. Q So is the 17 answer yes? A Yes."); 113:25-114:1 ("we decided that was – it's getting too 18 crazy out here, and more and more [Bay Boys] started showing up on the fort."). 19 Spencer Decl. ISO Motion For Class Certification, ¶¶ 11-23 (same); Spencer 20 Decl. ISO Class Cert. ¶ 12; Blakeman 21 Depo. 223:8-11.
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1	<u>Issue #6: Assault</u>	
2	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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4	83. The Bay Boys also committed 5 battery against Plaintiff Spencer, with 6 Defendant Blakeman present and 7 directly participating, when a Bay Boy 8 intentionally collided with Plaintiff 9 Spencer while surfing, leaving him with 10 a serious laceration on his hand.	83. Spencer Depo. at 98:5-117:5; 142:24-144:19; 172:13-175:12; 223:8- 11 (Plaintiff Spencer recounting being assaulted and battered by Bay Boys, including Defendant Blakeman); Spencer Decl. ISO Motion For Class Certification, ¶¶ 11-23 (same).
11	84. There is ample evidence that the Bay 12 Boys, including each of the Individual 13 Defendants, acted with a common 14 scheme and design to utilize 15 intimidation, threats, and physical 16 violence when necessary to enforce 17 unwritten rules in Lunada Bay, 18 including the exclusion of perceived 19 “outsiders” like Plaintiffs.	84. Lee Depo. 118:10-20, 119:14-15, 120:24-121:1, 123:7-8, 22-23 (although there is no “written rule book” there is “an understanding” among local surfers at Lunada Bay as to the ground rules for surfing there); Johnston Depo. 63:20- 64:2; Spencer Decl. ¶ 12; Spencer Depo., 113:21 (“they all know each other”).
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21	<u>Issue #7: Battery</u>	
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23	<u>Issue #7: Battery</u>	
24	<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
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27	85. Defendant Johnston directly	85. Reed Depo. 170:23-24 (“I remember
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1 **Issue #7: Battery**

2 **Plaintiffs' Additional Material Facts:**

3 **Evidence in Support of Plaintiffs'**
Additional Material Facts:

4 committed battery on Plaintiff Reed
5 when he intentionally sprayed beer on
6 her and her camera

7 Mr. Johnston opening the can of beer in
8 a way that sprayed my arm and my
9 camera."); 218:15-22; 301:1-15;
10 313:13-317:19; Franklin Decl., Ex. 17
11 [video of incident filed by Defendant
12 Blakeman] [Docket No. 324].

13 86. The Bay Boys also committed
14 battery against Plaintiff Spencer, with
15 Defendant Blakeman present and
16 directly participating, when a Bay Boy
17 intentionally collided with Plaintiff
18 Spencer while surfing, leaving him with
19 a serious laceration on his hand.

20 86. Spencer Depo. at 98:5-117:5;
21 142:24-144:19; 172:13-175:12; 223:8-
22 11 (Plaintiff Spencer recounting being
23 assaulted and battered by Bay Boys,
24 including Defendant Blakeman);
25 Spencer Decl. ISO Motion For Class
26 Certification, ¶¶ 11-23 (same).

27 87. Each of these attacks on Plaintiffs
28 Spencer and Reed were coordinated and
carried out with assistance from other
Bay Boys.

87. Lee Depo. 118:10-20, 119:14-15,
120:24-121:1, 123:7-8, 22-23 (although
there is no "written rule book" there is
"an understanding" among local surfers
at Lunada Bay as to the ground rules for
surfing there); Johnston Depo. 63:20-
64:2); Spencer Decl. ¶ 12; Spencer
Depo., 113:21 ("they all know each
other").

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2 **Issue #8: Spoliation—Defendants' Destruction of Evidence**
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5 **Issue #8: Spoliation—Defendants' Destruction of Evidence**
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<u>Plaintiffs' Additional Material Facts:</u>	<u>Evidence in Support of Plaintiffs' Additional Material Facts:</u>
88.Defendants Charlie Ferrara and Frank Ferrara ignored their duty to preserve evidence in this matter, resulting in the spoliation of critical evidence.	88.Wolff Decl., ¶¶ 51 (Despite being served with document requests for cell phone records in November 2016, neither Charlie Ferrara nor Frank Ferrara attempted to obtain documents until approximately June or July 2017), 52 (despite being ordered by Magistrate Judge Oliver to produce all cell phone bills and text messages, counsel for Defendants Charlie and Frank Ferrara ignored the Court's order and failed to produced Defendant Charlie Ferrara's cell phone data), 53 (due to Defendants Charlie and Frank Ferrara's failure to preserve evidence, their cell phone records only date back to February 21, 2016, and are missing critical data from the dates the Plaintiffs were harassed and attacked – January 29, 2016, February 5, 2016 and February 13,

1 **Issue #8: Spoliation—Defendants' Destruction of Evidence**

2 **Plaintiffs' Additional Material Facts:** **Evidence in Support of Plaintiffs'**
3 **Additional Material Facts:**

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5 2016) & Ex. 4 at 164:13-165:7 (Charlie
6 Ferrara testified that he hasn't "really
7 tried that hard" to locate his cell phone
8 bills), 172:25-4 (Charlie Ferrara has not
9 done anything to preserve the
10 information that is on his phone,
11 including photographs and text
12 messages); *see also* Docket No. 267
13 (ordering Defendants Charlie and Frank
14 Ferrara to produce documents).

15
16 DATED: August 7, 2017

17 HANSON BRIDGETT LLP

18
19 By: /s/ Kurt A. Franklin

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